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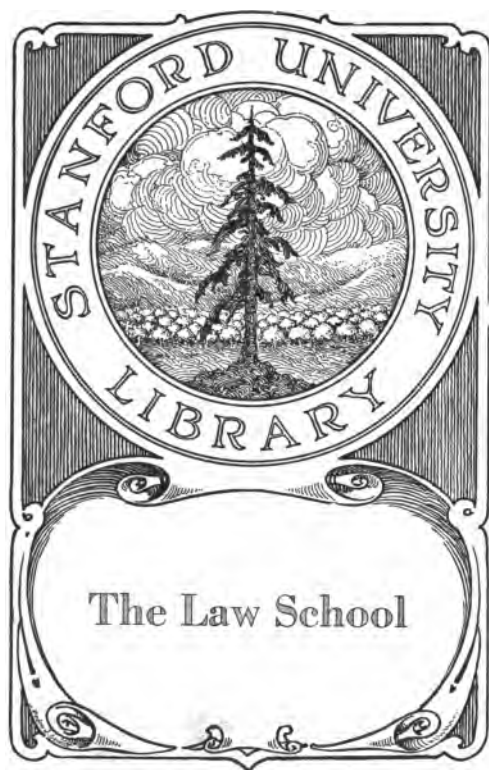
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SIXTH ANNUAL REPORT
OF THE
Board of Railroad Commissioners
OF THE
STATE OF CALIFORNIA,
FOR THE
Year Ending December 31st,
1885.

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SIXTH ANNUAL REPORT

OF THE

BOARD OF RAILROAD COMMISSIONERS

OF THE

STATE OF CALIFORNIA,

FOR THE

YEAR ENDING DECEMBER 31, 1885.



STANDARD BOOKS

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SIXTH ANNUAL REPORT

OF THE

Board of Railroad Commissioners.

REPORT OF COMMISSION.

BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA,)
AT OFFICE IN THE CITY OF SAN FRANCISCO,)
January, A. D. 1886. }

To his Excellency GEORGE STONEMAN, Governor of California :

The feet of this Commission are planted, not in party platforms, but in the Constitution by which it was created. With reference to its constitutional origin, it has been said by a close observer and competent judge in another State, to have been created in "disregard of precedents." It exists, nevertheless, by virtue of a law which is paramount to precedents, to disregard which, for any personal or partisan purpose, would be to conspire against itself and to commit self-criminating suicide. But while it is administered in defiance of the shallow platitudes and insolent demands of blustering factionists and agitators, it can stand against their treacherous conspiracies, which have always been infamous crimes against the Constitution and every public and private interest under its shelter.

STARTLING MINORITY ANNOUNCEMENTS ANNUALLY MADE AND REPEATED.

If the Railroad Commission as constituted by the Constitution, is its legitimate offspring, and is alone recognized as such, it follows that an adopted minority is without lawful parentage or purpose. But aside from a preposterous clause of the Constitution, which says "the act of a majority of the Commissioners shall be deemed the act of the Commission" (Constitution, Art. 12, Sec. 22), we have no desire to forestall the startling minority announcements annually made and repeated in open letters to your Excellency, styling themselves "reviews," "communications," and reports of "my own." Referring to the first pages of those for 1883 and 1884, relating to the "mystifying" manner in which we sign and send off a report, we find this distinguished expositor of motives and conduct piping through your Excellency, as if the office of Governor were a tin trumpet, as he says "to the people of the State, to let *them know through you* the interior workings of the Board of Railroad Commissioners, the members of which were elected as the custodians and protectors of the people's rights against what *I deem* to be the merciless exactions of the railroad corporations of this State." The leading points in the ludicrous exposure by which he devotes himself to the cause of the people are as follows: "On the seventh day of January, 1884, at about twelve o'clock noon of that day, I was at the office of the Board of Railroad Commissioners in the City and County of San Francisco. Commissioners Carpenter and Humphreys were both present." He might have said "both present" as usual; and instead of saying "I was at the office," he might have said that his colleagues had telephoned for him two days previously, and that he came in while the

Bailiff was out after him. After all this rigmarole about nothing, he comes to the first rascally outrage on the people, and says:

"Mr. Carpenter went to his desk, and from one of the *drawers thereof* drew forth a roll of manuscript, which he presented to me with the remark that this was his report," and more like it. Possibly if the people had been told *which drawer* they would have avenged the outrage. It appears that after this sensational drawer scene the Commission changed base and took up a new position against the people. He says: "All three of the Commissioners went into the next room, which is occupied by the Secretary of the Board, Mr. W. R. Andrus, who was then present. I *here announced* that for reasons which were sufficient to my mind I should decline to sign the report." In honor of this trial and triumph of struggling virtue in the "next room," there should be some suitable public demonstration. Coming down to last year we find these thrilling passages repeated by the correspondent of the people through your Excellency. He devotes four mortal pages to the old outrage and a new one, which consists in adopting our last report while he was in Sacramento, and submitting it to him there, where there were no such suspicious accessories as a desk with a "drawer thereof," or a "next room" with its horrid reminiscences. This last offense against mankind was aggravated by the fact that the report, all the same as this one, "was never seen, even by the Secretary of the Board, until it was presented for adoption." And the last of these open letters to be forwarded to the people by your Excellency is left open at both ends by the saving announcement that its reserved and reticent author is "not in the habit of making complaints to newspapers or others of my *official associates*."

HOW OPEN LETTERS TO THE PEOPLE THROUGH THE GOVERNOR HAVE SAVED THE COUNTRY.

To acknowledge the great service to the country of these letters, we are severally, in our private capacities, at liberty to resort to them, and may invest with still greater significance the startling State secrets which they contain. Without them your Excellency might never have been notified that the Commission was in open rebellion against an individual member who had set up for himself. In default of the alarming information that the Commission was setting itself and the Constitution above its self-constituted *custos morum*, and his thrice rejected platform, there could have been no efficient exercise of gubernatorial power to "see that the" platforms "are faithfully executed." (Constitution, Art. 5, Sec. 7.) Without them the most watchful agitation, under the shadow of an unknown peril, might have slept on its arms, lulled into fatal apathy.

A SUGGESTION THAT THE COMMISSION MIGHT BE IMPROVED BY DIVIDING IT INTO THREE MINORITIES.

Although the imminent peril is passed, the cause remains, and it is time to consider and determine what should be done with a Commission that is constitutionally in the way of a minority. A Credit Mobilier of professional reformers, who always predicate perfection of the rascality to be abated, would have it turned over to them and converted into a den of thieves. Some would make it a sort of coalbunker or tender to a party machine, with the three Commissioners as stokers, of no earthly use to railroads or their patrons. Others would merge the majority in the minority, two in one and no remainder, and be entirely rid of it in that way;

and so opinions are divided, and there is no telling what can or ought to be done. Having no recommendation or remedy to offer, we only suggest, that it might be better to divide the Commission into *three minorities*, required to perform the enormous labors of one, and to continue its reforms, by swinging a dark lantern at the wrong end of the train, and hooting at the monopoly.

RECOMMENDATIONS RENEWED.

By the "disregard of precedents" in the creation of this Commission, to which we have adverted, it is the only one in the United States which can exercise no conditional or advisory control over railroad facilities and accommodations, involving the convenience, comfort, and safety of the public. The cause of this difference will be found in the narrow mandatory policy adopted in this State, but elsewhere generally condemned and rejected. If, therefore, the Commission is to be continued and to subserve the most useful purposes of State control, as attested by the experience of other States, it should have the powers recommended in our last report, for the reasons therein stated. The recommendations are renewed, and again respectfully submitted, as follows:

STANDING ORDER TO EXPEDITE THE PREPARATION AND SERVICE OF SCHEDULES.

On the fifth day of September, 1883, Commissioner Carpenter introduced a standing order to expedite the preparation and service of schedules, which is self-explanatory. On the fifteenth day of the same month it was adopted unanimously, and is as follows:

BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA.

WHEREAS, By Section 11, Chapter 59, of the Statutes of 1880, entitled "An Act to organize and define the powers of the Board of Railroad Commissioners," it is provided that: "Whenever said Board, in the discharge of its duties, shall establish or adopt rates of charges for transportation of passengers or freight, pursuant to the provisions of the Constitution, said Board shall serve a *printed schedule* of such rates and of any changes that may be made in such rates, upon the person, copartnership, company, or corporation affected thereby; and upon such service it shall be the duty of such person, copartnership, company, or corporation to immediately cause *copies of the same* to be posted in all of its offices, station-houses, warehouses, and landing offices affected by such rates, in such manner as to be accessible to public inspection during usual business hours. And, whereas, it is further provided in said section and Act that the rates of charges established or adopted by said Board, pursuant to the Constitution and this Act, shall go into force and effect the twentieth day after service of said schedule of rates, or changes of rates, upon the person, copartnership, company, or corporation affected thereby, as herein provided." And, whereas, unless waived by the party to be affected thereby, as aforesaid, the mode and time prescribed exclude all others. And, whereas, it is optional with such party to waive said time, and also service of printed copy of said schedule; and, whereas, it is competent and proper for this Commission, when it shall "*establish or adopt* rates of charges," as aforesaid, to consult the convenience and preference of such party as to the form and clerical preparation of the schedule it is required to copy and post for inspection and use as aforesaid:

Now, therefore, it is hereby ordered, That in pursuance of said section of said Act, this Commission can and will establish or adopt rates of charges for the transportation of passengers and freight only by schedule; and that in the preparation thereof in the usual form for convenient use as aforesaid, the Secretary of this Commission is hereby authorized and directed to avail himself of such form or draft of such schedule as may be most conveniently copied and used by the party to be affected thereby.

And it is further ordered, That upon the completion of any schedule of rates and charges, so drafted and prepared as aforesaid, the same shall be submitted to the Commission, and it shall be "*established and adopted*," as aforesaid. A certified copy of the order adopting the same shall be served by said Secretary upon the party to be affected thereby; and in case such party shall prefer for its own convenience, and to simplify the duties of all concerned, to make its own copy of all such schedules, and shall consent to put the same in operation within twenty days from and after the service of said order, and in accordance therewith, it may do so without further preliminary process or proceeding to enforce the same; *provided*, that said party, or its general manager, shall, within three days from and after the service of said order, acknowledge the service of said schedule by printed copy, expressly waiving all other service or notice thereof, in writing, addressed to said Commission, and to be filed and remain of record in its office.

And it is further ordered, That if such acknowledgment and waiver, as aforesaid, shall not be filed in said office within three days from and after the service of such order as

aforesaid, then, and in that case, said Secretary shall immediately proceed to print such schedule and order, and to serve printed copies thereof on the parties to be affected thereby, and shall keep a record of his action in the minutes of said Commission.

LEGISLATION SUGGESTED.

This standing order relates to the office work of the Commission, and to its most important duties. It conforms to the simple and definite methods of the Constitution, which terminate in orders and decisions. But there is, also, the statute of 1880, Chapter 59, Section 11, which imposes upon the Commission the endless mechanical labor of preparing "printed schedules" of the rates of fares and freights it establishes or adopts, and is an unreasonable and ungrammatical supplement to the Constitution. It makes the Commission, in the matter referred to, a sort of one clerk inconvenience to the companies subject to its jurisdiction, without their force or facilities for doing the work required, and to the manifest detriment of all concerned. And, while acknowledging accommodating waivers of the cumbersome service required of the Commission, they are regarded as pertinent admissions of what the law should be. It is, therefore, respectfully urged that Section 11, *supra*, be so amended as to require of the Commission only those constitutional determinations, known as orders, or decisions, in compliance with which the company or companies to be affected thereby, shall be required, within a reasonable time, to tabulate, print, and post the necessary schedules.

REFORMED RETURNS RECOMMENDED.

In this connection, and for reasons which will be made apparent by an examination of the stereotyped annual statements of railroad companies, filed in this office, copies of which will be found in this volume, it is recommended that the several transportation companies owning or operating railroads in this State, be required to make verified returns and reports of all matters touching the ownership and operation, the condition and management of their respective roads, at such times, and in such manner and form, as this Commission shall prescribe. And the Commission should be empowered and required, with due regard to the convenience and established regulations of said companies, and each of them, to prepare, in time for use, blank forms of such return or report, and to change and amend the same as shall be deemed expedient. By this method of bringing returns to the point and purpose for which they are required, it will be possible to substitute more important information for stale repetitions, signifying not much if anything; and the reasonable requirements of the Commission, for the habitual courtesy of railway officials.

JURISDICTION OF FOREIGN CORPORATIONS.

It is only by due process of law that any official act of this Commission can be supported or enforced. The validity of every order, decision, and proceeding rests upon jurisdictional facts of record, the first of which is service of process upon the proper party. If it be a foreign corporation, having its principal place of business in another jurisdiction, and operating a railroad in this State, it is required by the Act of April 1, 1872, to file, in the office of Secretary of State, an appointment, designating, by name and residence, some person upon whom process may be served. As for all the purposes of such appointment, it should be made a record of this office, it is recommended that any foreign corporation, operating a line of water or rail transportation in this State, be required to file in this office a written appointment, duly made and authenticated by its corporate seal, designating some person, residing in this State, upon whom all legal process and official papers may be served. It should also be required to show, by a statement in said appointment, or otherwise, whether it is operating such line of transportation as owner or lessee, and if as lessee, the terms and conditions of its lease.

NEW POWERS AND DUTIES.

Thus far the Commission has only outlined "such further powers" as are clearly contemplated and authorized by Section 22, Article XII, of the Constitution. They go to the exercise of powers already possessed, as means to an end. In a power conferred, with the means necessary to its exercise, is implied the correlative duty to be discharged. But an official duty without corresponding advisory or other power, if supposable at all, can subserve no useful purpose. Hence, to confer upon this Commission visitatorial supervision over the railroads of this State, corresponding to that of like tribunals in other States, involves the imposition of new duties, coupled with appropriate advisory or administrative authority. The power and duty to "establish or adopt rates of charges on railroads," has never been extended to their general management. If done at all, it must be by further legislation, the expediency of which is the only question to be determined. It has two sides, and if this Commission could not consider both with the dispassionate fairness of an impartial judge, it would be unfit to exercise the contemplated power.

The onus of showing the utility of change is always upon its advocates. That none is urged, or should be made, by reason of any pretended conflict of rights or interests between the railroads and their patrons, may be conclusively presumed. That the most moribund monopoly of a franchise for public use, worth nothing for any other purpose, has a vital selfish interest in its safety and convenience must be admitted. That the most enlightened self-interest and knowledge inspired by railroad enterprise are not sure guarantees of

careful and accommodating service, is not always to be attributed to its magnitude or hazards. That the highest order of mind and manhood, while marshaling the forces and factors of railroad management and industrial development, could sometimes profit by prudent advice and warning, is attested by casualties and accidents some of which might have been prevented. That the legal liabilities of railroad companies, for the wrong or negligence of themselves or agents, are not a sure safeguard of life and property, is affirmed in actions for damages, by the verdicts of juries, and the judgments of Courts.

Thus, upon such considerations of law and fact, as may be predicated of all railway management, the Commissions of other States have been invested with such visitatorial and remedial powers and duties as have brought them into their most useful and friendly relations with railway companies. By authorized inspection and findings of fact, touching the facilities and instrumentalities of transportation, and power to advise or order repairs and betterments, they exercise a watchful and suggestive supervision, conducive to the safety and convenience of all concerned. It is thus that corporate self-government is subjected to such and so much State control as carries with it the official evidence and assurance of reasonable regulations—suitable facilities, and the safest attainable and most accommodating management. It is, therefore, recommended that the inspection and finding of facts, which would otherwise be an idle display of unofficial intermeddling, be required of this Commission; and that its general supervision of railroad and other transportation companies in this State be accompanied by such appropriate powers and sanctions as shall insure compliance with its authorized orders and decisions.

BRIEF REFERENCE TO THE SEVERAL EXHIBITS CONTAINED IN THE APPENDIX.

Exhibit A

Shows the number of meetings held by the Commission in 1885, and the members present.

Exhibit B

Summarizes the operations of the Central Pacific Railroad, and leased lines, for the years 1881, 1882, 1883, and 1884, and shows:

First—Total earnings and income from all sources.

Second—Total income, operating expenses, and taxes.

Third—Interest paid on debt.

Fourth—Paid United States and Sinking Funds.

Fifth—Total payments from income.

Sixth—New construction, betterments, etc.

The total expenditures for the four years, excluding dividends paid, was \$89,515,890 92. In addition to this sum there was expended for construction and betterments of rolling stock on roads owned and operated (excluding those operated but not owned) by the Central Pacific Railroad Company, the further sum of \$5,514,433 35.

It appears, therefore, that for the four years to which this exhibit relates, the Central Pacific Railroad has expended, excluding dividends, the sum of \$95,030,323 27. Excepting what was paid to bondholders and to the United States, the greater portion of this sum was expended in this State, and more than \$30,000,000 was paid out and expended for labor.

Attention is especially invited to this exhibit for an analysis of the gross earnings, operating expenses, and net earnings, per passenger and freight train miles for each, and the average for all, of said years. From this it will be seen that had the average for the first three continued through the last of said years, the net income from passenger trains would have been \$1,791,571, and from freight trains, \$1,470,146—more than it was in 1884. Whether this diminution of net income was caused by reductions of rates in both departments, or by depression of trade and business, or by both, the effect is the same, and the cause continues. If resulting from reductions, it is enough for us to say that they were not made for that purpose, but upon the theory that railroads, like steamships, steamboats, and other instrumentalities of transportation, belong to their owners, and that all alike,

whether rich or poor, are "entitled to reasonable compensation and no more." (Civil Code, Sec. 2173.) To this time-honored and codified rule of the common law the Constitution expressly refers such orders and decisions of this Commission as are "deemed to be conclusively 'just and reasonable.'" (Art. 12, Sec. 22.)

Exhibit C

Analyzes and distributes by States and Territories the passenger traffic of the Central Pacific Railroad and leased lines, for the year 1884.

It shows the number of passengers, the mileage, the earnings, the average miles traveled by each passenger, and the average charge per passenger per mile in cents, originating and terminating in each of the following States and Territories, namely: California, Nevada, Texas, Utah, Arizona, and New Mexico.

Also, west-bound through traffic originating:

First—East of Ogden and terminating in California, Nevada, and Utah.

Second—East of the Needles and terminating in California.

Third—East of Deming and terminating in California, Arizona, and New Mexico.

Fourth—East of El Paso and terminating in California, Arizona, and New Mexico.

Fifth—Total passenger traffic originating on the Central Pacific Railroad.

Sixth—Total west-bound passenger traffic terminating on said road.

Seventh—Total passenger traffic on the Central Pacific Railroad and leased lines for said year.

It also shows as to the same factors of passenger traffic for the same year, the proportion:

First—Originating and terminating in California.

Second—Originating in and passing out of State.

Third—Originating east of terminals and passing into State.

Finally it shows the passenger traffic, average miles traveled and average charge per mile per passenger, on the Central Pacific road and leased lines west of El Paso, from 1872 to 1884, both years inclusive.

Exhibit D.

From the annual address by the Hon. M. M. Estee, before the State Agricultural Society, we take with his comments the facts and figures furnished him by A. N. Towne, General Manager of the Southern Pacific Railroad and leased lines. They show by the shipments east for a series of years the progressive increase in the production of green fruits and vegetables, of canned and dried fruits, of brandies and wines; and also, how these important industries have been fostered and developed by corresponding and continuous reductions in the rates of transportation. In themselves reliable and valuable, the facts and figures are invested with peculiar interest by the instructive use that is made of them.

Exhibit E.

This is a series of tabulated statements showing recent changes and reductions of through and local passenger fares by the Southern Pacific Company. By the first it will be seen that on the first day of January, 1885, this company consummated arrangements with its connecting lines from the Missouri River, to attract and facilitate European immigration to

this coast by the very low charge of \$30 per passenger. The table appended shows in parallel columns the proportions and rate per mile received by the Southern Pacific Company before and after the reduction.

The second shows that round trip tickets, good from a Friday or Saturday until the next Tuesday, were issued during the past season at all terminal points to sportsmen and excursionists at reduced rates, which continued until the thirty-first day of October, 1885.

The third shows that since January, 1884, the through rates to Portland, Oregon, have been greatly reduced, and that the extension since that date of track and train service to Delta has increased the pro rata of the Southern Pacific Company. Lower rate limited tickets were also sold at Stockton, Sacramento, and Marysville.

From the fourth it will be seen that special round trip tickets from San Francisco, Stockton, Sacramento, and Marysville to Strawberry Valley, Sissons, and other Summer resorts, were sold at reduced rates, and that the increased proportion received by the Southern Pacific Company is due to increased rail mileage north of Redding.

Within this year, also, third-class or emigrant rates via Ogden, Kansas City, and other Missouri River points, have been reduced from \$50 to \$47 50, of which the proportions of the Southern Pacific Company, west of its eastern terminals—taking Kansas City as an example—are shown by the tabulated statement of the old and new pro rata and rate per mile.

The fifth shows the stations and reduced rates at which round trip tourists' tickets to Lake Tahoe and return by stage via Truckee, have been issued during the past Summer. It will be seen also that thirty-day excursion round trip tickets from Los Angeles to Lang and return, and vice versa, are at the rate of \$3 75.

The sixth relates to reduced round trip excursion rates and divisions by rail and stage to Summit, Soda Springs, and back.

The seventh is a tabulation of rates and reductions from San Francisco via Reno to Beckworth, Genesee, Greenville, Janesville, Milford, Mohawk, Plumas, Eureka Mills, Quincy, Susanville, and Taylorsville, and will show large reductions and the proportions and rate per mile received by the Southern Pacific Company.

The last reductions of through and local lower-grade rates on the Southern Pacific system, took effect on the thirteenth day of October, 1885, at which time the company commenced carrying emigrants on its express trains, and also reduced second-class passenger rates from San Francisco to Los Angeles from \$18 to \$15.

Exhibit F.

These elaborate comparisons of charges for the same classes of freight, by careful equations of distance and weight, on the Chicago and Northwestern, the Chicago, Milwaukee, and St. Paul, the Union Pacific, the Missouri Pacific, the St. Louis and San Francisco, the Texas Pacific, and the Atchison, Topeka, and Santa Fe roads, with those on the Central Pacific (now Southern Pacific) road and leased lines, are reliable and instructive. They show that the freight rates prevailing on the Southern Pacific road and leased lines, when closely compared with those of seven leading roads west of Chicago and the Missouri River, and also with the freight tariff adopted and finally rescinded *after a year's consideration, two decisions and one rehearing* by the Kansas Commission, are comparatively low, and may be "set down as the accustomed reward for like services." (*Coe vs. Goodwin*, 19 Wendell, N. Y. 261; 2 Kent's Commentaries, 599.) "It is to be

supposed that a common carrier can afford to carry at much the same rate of hire as that which is exacted universally by carriers *similarly situated*, and which, if it has been found to remunerate them, may, upon the best grounds, be called reasonable. The word *reasonable*, therefore, is to be the criterion of the price which a common carrier has a right to demand." All the books, and Browne on the Law of Carriers, p. 82. "Like circumstances" construed to mean and include cases where the labor, liability, and expense of the carriage are the same. (*Great Western Railway Company vs. Sutton*, H. of Lords, 38; J. L. Exch. 184; Browne on the Law of Carriers, p. 258; Walf. Sum. Law of Rys., p. 317; *Ransome vs. Eastern Co.'s Ry.*, 4 C. B. [N. S.] 63.)

Exhibit G.

Briefly generalized, this is a condensed presentation of dry but instructive facts and figures contained in the annual returns to this office of twenty-five roads. It has been carefully prepared and compared with the original returns by Commissioner Humphreys, and is more convenient for reference than the full returns in their undigested form. It will be seen by reference to this exhibit, that the roads reporting to this office are generally in sound financial and physical condition, and during the year covered by the returns were participating to some extent in the peace, plenty, and prosperity of the State. They have, of course, shared in the depression caused by the short crop of 1885.

Exhibit H.

Showing incidental expenses of the Commission for the year ending December 31, 1885.

A SHAM SCHEDULE.

The Commission, in its report of last year, page 25, pricked the bubble as follows:

EXAMINATION OF COMMODITY RATES ON DISTANCE PLAN.

In May of this year, upon his own motion, without complaint or petition, Commissioner Carpenter, with the clerical assistance of Secretary Andrus, renewed investigations of grain and other commodity rates from interior points to tide-water. The method adopted was to compare tariffs on the Central Pacific system with those of other roads for the same classes of freight, and for like distances. It was done by preparing a trial sheet with distances and key, compared and scaled rates in parallel columns, and was intelligible enough for its purpose. Only the column of distances and of the rates finally established could have any place in a schedule. Some time after the preparation of this trial sheet, as one of the various methods of systematizing the study of comparative charges on different roads, and determining what they should be on those of California, it was copied for Commissioner Humphreys, and thereafter, with slight changes, for Commissioner Foote, as whose schedule it is now known. It was presented by him at a meeting of the Commission held on the twenty-ninth day of November, 1884, and together with lengthy comparative and statistical statements (vide Exhibit C, p. 39) submitted by the Central Pacific Railroad Company, was passed for consideration on the second ultimo.

On the day appointed it was taken up, and General Freight Agent, Richard Gray, being present, explained the statements prepared in his office, and at the instance of Commissioner Foote, had leave to make some additions thereto. Whereupon the Commission adjourned to meet at the call of the Chairman.

At the subsequent and last meeting in 1884, it was passed without further action. And in the absence of Commissioner Foote during the first six months of 1885, further proceedings upon it were deferred. On the thirtieth day of July, 1885, all the Commissioners being present, on motion of Commissioner Carpenter, the Central Pacific Railroad Company was notified that the Commission was ready to receive its report, touching the matters

referred to it on the second of December, 1884. By reason of the absence of Mr. Gray on the fourth, and of the official stenographer on the fifth, the next meeting was held on the sixth of August, when the newspaper schedule was taken up. It consists of three trial sheets representing the plan of examination before stated. So much of it as relates to grain rates, is a faithful copy, at second hand, of that prepared under the direction of Commissioner Carpenter, with some additional comparisons on the same plan of rates on wool and live stock. Of every four columns of figures which it contains, only two could have any place in a schedule, of which it never had the semblance, and into which it could not be converted by copying. As one of many methods for studying and comparing rates, it is precisely the same as the one from which it was copied, and without the slightest credit to any one, is relatively good or bad for that purpose. But as a pretended schedule it was never more nor less than a transparent sham.

In response to the notice given, Richard Gray, General Freight Agent of the Southern Pacific Company, submitted a number of tabular statements (vide Exhibit F) of which the following is a brief synopsis:

COMPARISON OF GRAIN RATES.

	To San Francisco.	To Port Costa.	To Stockton.
Southern Pacific rate (average per mile) .....	.0188	.0210	.0353
Foote rate .....	.0174	.0187	.0290
Kansas Commissioners' rate .....	.0218	.0241	.0410
Atchison, Topeka, and Santa Fe rate .....	.0224	.0241	.0374
Union Pacific Railroad rate .....	.0235	.0275	.0555
Chicago, Milwaukee, and St. Paul rate .....	.0226	.0247	.0402

A comparison of the cattle rates showed the following result: Central Pacific Railroad, .02069 cents per ton per mile; proposed rate, .02121; Kansas Commission rate, .01908; Union Pacific rate, .02749.

In his oral examination he said that the grain rates of California were lower than those of Kansas, Iowa, and Nebraska. The rates on the Southern Pacific system were in many instances lower than the tariff adopted by the Kansas Commission, and thereafter rescinded by reason of its injustice to the railroads of that State. To controvert the previous statement of Commissioner Foote that Kansas and Nebraska were not leading grain-producing States, he referred to statistics from which it appeared that Kansas produced more corn, and with one exception, more grain, than any State in the Union; and that for grain Nebraska ranked third, and for corn was second only to Kansas.

In answer to questions he explained why his company for the last three months had been charging grain shippers to Port Costa and other terminal points for unloading. Until within the last three months, shippers at Port Costa had been allowed the cost of unloading on their bills. Now, as with all other classes of freight, at all other terminal points, the burden was on the shipper. One of the reasons for the regulation was to prevent the detention of cars by the shipper, who was charged eight cents per ton for unloading. As that was the actual cost of the service it could have no effect on the price of grain.

He said that the earnings of his company, in 1884, were \$2,500,000 less than in the previous year, and that by reason of the partial failure of the grain crop the prospect for the present season was not good. Hence it had

ceased extending its lines, had discharged large numbers of men, and had sought to reduce expenses and economize in all departments of its business. During the past year it had discharged 2,000 workmen and employes, but continued to pay better wages and salaries than any company in the United States.

Referring to the abandonment of special contracts as the result of competition by overland roads, Mr. Gray said that the tariff of rates was about the same as before. Through the transcontinental pool the Southern Pacific Company received 18½ per cent of the traffic over the Atchison, Topeka, and Santa Fe, and the Atlantic and Pacific roads. Of the freight and passenger traffic over the Omaha route the Union Pacific received 54 per cent, and the Central Pacific Company 46 per cent. As nearly all the wool of California was shipped directly east, and did not come to San Francisco at all, it was subject to overland rates not within the jurisdiction of the Commission. In his statements, therefore, he had regarded wool rates as of comparatively little importance.

He further stated that less than one half the wheat of California was handled by his company. Of 1,200,000 tons in 1883 it carried to shipping points 500,000 tons, and of 1,609,000 tons in 1884 it carried 643,000. North of Marysville there might be about an average crop, but about Fresno and Merced there would not be more than one third of the usual product. The overland fruit business had improved. Of fresh fruit transported on passenger trains the quantity had doubled, and the cost of carriage per carload to Chicago, had been reduced from \$800 to \$600. Cherries which could not be sold here for 2 cents per pound were shipped to Chicago and netted 8 cents. Oranges go by freight train at 1 cent per pound or \$200 per carload. During the past six months 2,000,000 pounds of oranges had gone east. Of all the fruit handled by the railroads fully 95 per cent goes east. Most of that brought to the San Francisco market is transported in boats. In all his experience in the freight department of his company he had never known an increase of rates once established, and unless shown to be unreasonable the Commission should not again reduce them.

At the conclusion of Mr. Gray's statements, Commissioner Foote desired time to examine them, but introduced the resolutions following:

OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA, }
SAN FRANCISCO, August 6, 1885. }

WHEREAS, An examination and comparison of the freight schedule of the Central Pacific system of railroads demonstrates the fact that unjust discriminations have been and are now being made in certain sections of this State upon certain classes of freight; therefore, be it

Resolved, That the Secretary of this Board be and he is hereby instructed to immediately prepare and serve upon the proper officer of said companies a schedule of freight rates in accordance with the schedule here following; *provided*, that where the rates now charged are less than those provided by said schedule, they shall remain as they now are; in all other cases they shall be fixed as provided in said schedules.

We commend this resolution, as the last and best of its class, to the considerate judgment of all concerned. It brings bald assertions by resolution up to date. It matches and mates "a schedule of freight rates in accordance with the schedule here following." It will be observed that the conventional *whereas* "demonstrates" "discriminations" as usual, not specified, and the *only certainty* of which is, that they are "in certain sections of this State, upon certain classes of freight." As a substitute for these hypothetical "schedules," "sections," and "classes," Commissioner Carpenter introduced the order following:

BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA.

It is hereby ordered that the tabulated trial sheets, heretofore prepared by the Commission for purposes of comparison, and now under consideration as the proposed basis of freight schedules, be placed on file for reference.

And pending further proceedings and the hearing of shippers in the premises, it is held and decided:

First—That the cost to the carrier, or the value to the shipper, of any railroad service, involves the consideration of other factors beside that of distance.

Second—That the direction of carriage is also to be considered, and that the constitutional prohibition of a greater charge for a short than a longer haul, of the same class of freight in the same direction, means aggregate charge for such distance, and not rate per mile.

Third—That other conditions being substantially the same, the rate per mile for the longer haul should be less than for the shorter included therein.

Fourth—That subject to the foregoing provision of the Constitution, to which the railroad tariffs of this State now conform, the rate of charge on each and all roads should be governed by the class and volume of freight, by the distance and direction of carriage, and by the general nature and vicissitudes of the service rendered.

Fifth—That by express provisions of the Constitution and law creating and governing this Commission, it is distinctly and fully authorized, in the exercise of its own unbiased judgment, to "change," "establish," or "adopt" existing rates of charge upon any or all of the railroads of this State, but is nowhere required to raise or reduce existing rates.

Sixth—That every proposition to put them up or down has two sides to be considered, and that the real parties in interest entitled to be heard by themselves or their authorized attorneys, are shippers and carriers.

Seventh—That by reason of the law and the evidence, the finding and decision of this Commission are against uniform rates, based upon any single factor of transportation, and in favor of such differential tariffs of rates as shall conform to the essential and diversified conditions of railroad construction, operation, and extension in this State.

Eighth—Holding, therefore, as the Commission does, that producers who have ample railroad facilities are not to be further favored to the lasting detriment of those who have none, and that the interests of all are to be considered, it finds from the record of this office that no shipper of grain, wool, live stock, fruit, or other staple of domestic production, or commerce, has appeared by himself or his authorized agent, to controvert or question any of the numerous statements, returns, or exhibits presented and filed by railroad companies. That the real parties in interest upon the other side may be heard, pending the further proceedings of this Commission, shippers and producers may supply such oral or written statements and recommendations in the premises as they have hitherto failed to make.

Commissioners Humphreys and Carpenter voting for, and Commissioner Foote against, this order was adopted.

STALE ASSERTIONS OF RAILROAD ABUSES WITHOUT LEGAL MEANING OR PROOF.

This order embodies very conclusive reasons for its adoption. It distinctly discards and denies the drivell and pretense of resolutions, by which vague charges of extortions and discriminations are resolved into something like Carlyle's "solution of universal slush." It takes decided issue with the stale assertions of railroad abuses, not specified, and which shippers have failed to discover or expose. It recognizes the rights of the "real parties in interest," so often falsely personated by partisan road agents, who have been totally ruined by having nothing on earth to ship, and so are good enough to demand relief for others. Upon every principle of justice and decency, it assumes that in default of evidence upon which a Justice of the Peace would render judgment for one dollar, the alleged abuses are not proven, much less "demonstrated." It repudiates unsupported suppositions, and assertions of discriminations which, in the mouths of brawling agitators, have lost their legal meaning, and requires some evidence of their actual existence, whereof the records of this office are as barren as those of the Extra Session, and as those of the Courts which always had, and now have, exclusive jurisdiction of actions sounding in damages for the alleged abuses. Thus it is grounded, not only in the clearest presumptions of law and fact, but also in the uncontroverted proof, that the freight rates in question are among the lowest in the schedules of this State, and that,

all things being considered, the railroads concerned are maintained and operated by thoroughly competent and accommodating managers, and at reasonable and constantly diminishing charges.

A DISTANCE TARIFF TESTED BY THE FIRST PRINCIPLES AND FACTORS OF RAILROAD SERVICE.

Besides the reasons for our action in the particular instance, we restate and adhere to the first principles and factors of railroad service. They are in different degrees and combinations the established criterions of its mere cost to the carrier, and of its real value to the shipper. And a tariff of freights based on any one of them, to the exclusion of all the others, is not only a perversion of the one adopted, but a stupid fraud upon the whole of them. If upon distance alone it ignores the crucial test of earnings and expenses by the *train-mile as the unit of railroad service*, whether at a loss or a profit, and the *ton-mile as the unit of public use*, measured by distance and quantity. It takes no account of the difference to a railroad company, whether its cars are loaded both ways or are filled with emptiness in one direction. It takes no notice of the further fact that there are general expenses and fixed charges having no relation to the distance of movement, and which would be more properly charged to the *ton of freight as a unit of quantity*, than to the *ton-mile, as the unit of quantity and distance*. Again it sets gradients and the law of gravitation at defiance. But as the force required for moving a loaded train one mile over a gradual ascent of only twenty feet, is about the same as for moving it two miles on a level track; and for moving one hundred and seventy-two tons of freight one mile over the maximum gradient of one hundred and sixteen feet, is nearly equivalent to fifteen hundred and twenty-six tons the same distance over a level track, it follows that a tape line tariff is a false measure of compensation. For one more illustration we might take the reduced charges established by a railroad company at and between terminal points for purposes of competition, as authorized by the Constitution, Art. 12, Sec. 20. To carry such charges by arbitrary reductions to non-competing points, over a whole road, or system of long and short roads, would be to convert the constitutional privilege into an unjust penalty, and to eliminate the element even of distance by a cut rate as the only remaining factor of an ideal schedule that should never get beyond the trial sheets by which its absurdity is shown. Such a tariff would defeat itself by the *reductio ad absurdum*.

RESULTS OF SUCH ABSURDITIES, AND OPINIONS OF COMMISSIONERS, JURISTS, AND STATESMEN CONCERNING THEM.

By such absurdities, the first Granger tariffs and legislation served only to harass and handicap the railroads and their patrons. The State Commissioner of Ohio, in his report for 1870, referring to nine tariffs as waning examples, said: "They were the most fruitful source of complaint." In 1874, the year in which Iowa, in hot haste, repealed its Granger tariff on classified roads, the advisory Commission of Maine commented on the situation as follows: "In the minds of those who give this subject the fairest consideration, and possess knowledge enough of it to appreciate fully the difficulties, it becomes a conviction, more positive the longer it is dwelt upon, that the only sure way to obtain permanently low rates on railroad traffic, and especially on freight, is to leave the problem untrammelled by legislative enactments, to those whose special business it is to study

out all its intricacies." (Report, 1874, p. 18.) Down to its last report the Massachusetts Commission congratulated itself and its constituents that it had never been invested with the coercive power to fix the charges for transportation. The New York Commission, in its report for 1885, exercised its advisory function, by recommending its continuance, and says: "No power over rates is vested in this Board except that of recommendation. * * * The facts established by the experience of our neighbors, clearly prove that New York State has made a happy choice of the wisest preliminary means to deal with the transportation problem. It is better to let light and intelligence seek the solution, rather than to allow public opinion to be guided by passion and prejudice into passing short sighted shifts of statutes"—and, *a fortiori*, they might have said "short sighted shifts" of schedules. (Report, Vol. I, p. 70.)

To the "experience of our neighbors," including that of Georgia, Tennessee, and Texas, might be added that of England, with its half century of intermittent railway inspection and supervision, as attested by Boards of Trade, Parliamentary Committees, and Royal Commissions. It thus appears from the experimental facts, that what should have been expected has actually occurred, and it may be fairly presumed that a wider induction of examples would show the same sequence of meddling supervision and conservative reaction. It goes without saying, also, that whether such supervision be by Legislatures, or by Commissions, the result is the same. Sooner or later it brings all who have real interests at stake to the inevitable conclusion that railroads, as was said by a celebrated Legislative Committee of New York, "must be run by brains, and not by legislation." By this disposition of the subject those precocious reformers, who know so much beforehand and nothing afterwards, will have a rest from their excessive labors. And as for such subterfuges and shams as arbitrary uniform rates, equal mileage, and competitive charges, prorated over a whole road, or systems of roads, they always had, and will always have the merit of making great men out of small ones, and then defeating themselves.

CITATIONS FROM OTHER COMMISSIONS RELATIVE TO UNIFORM AND COMPETITIVE RATES.

In our report for 1884 we cited opinions by the Commissions of Alabama, Georgia, Iowa, and Virginia, in substance, as follows: "It is a great principle of the common law that all rates of transportation shall be reasonable, and however low through rates on railroads may be brought down by competition, this fixed principle of natural justice should always be observed as to the local rates." (Report of Virginia Commissioner for 1878, p. 9.) The Commission of New Hampshire is the only one in any eastern State having authority to determine what charges for railroad service are just and reasonable. In doing so it has proceeded upon the same settled principles and rules of decision as those by which we have been governed. In its report for 1885 they are stated as follows: "The first point raised was whether the tables of maximum charges should be *uniform* upon all the railroads of the State." Upon this point it says: "The conditions are so unlike in several vital respects that uniformity would be rank injustice." Again it said: "The first conclusion reached was, that each road's circumstances should determine the maximum rates for that road." Placing the burden of proof where the law does, it was held by the Commission as a rule of procedure that those "interested" were entitled to a hearing, and "if no complaints appeared, then it would be proper to assume that the rates already established and in operation were *fair and reasonable*."

In its able and instructive report for this year the Iowa Commission says: "Equal, stable, reasonable rates must be desirable, and care must be taken lest while avoiding one, the public shall be overtaken by another evil. Every method should be taken to instruct both shippers and carriers in these two great fundamental truths, namely, that while competition is desirable, it may become ruinous and therefore undesirable, and that while unjust discrimination is an evil, to be absolutely prohibited, yet a wise, honest, and impartial discrimination is both necessary and desirable for the proper and healthy development of the country."

DIRECTIONS BY JUDGE DEADY FOR RUNNING A RAILROAD WITH REFERENCE TO THE "REAL EXIGENCIES OF ITS BUSINESS."

For their very explicit and pertinent application to the subjects we are here considering, we take from the *Chicago Legal News* of May 16, 1885, the following statement of facts and instructions by Judge Deady, in ex parte Richard Koehler, Receiver of the Oregon and California Railway, United States District Court, District of Oregon. The way this clear-headed Judge slashes the nonsense out of the stale platitudes of partisan pettifoggers, is both refreshing and instructive. We commend his clear-cut distinction between competition and discrimination, and his imperative command to his subordinate, to make the non-competitive short haul pay reasonable compensation, even though it be more than the restricted charge for a longer haul, in the same direction, but subject to competition. In this connection he tells his receiver, that if the short haul shipper pays only *reasonable compensation*, it is none of his business (or words to that effect) what the railroad does to compete with water craft, or what a shipper having a choice between them pays for a competitive service. As the only difference between the Constitutions of Oregon and California turns upon vested rights and the authority of the State to control railroads at all, it does not touch the instructions of the Judge as the judicial manager of a railroad, and which are as follows:

Deady, J. On January 19, 1885, Mr. Richard Koehler was appointed receiver by this Court in the suit of *Harrison et al. vs. The Oregon and California Railway Company et al.*, of the road of said company, comprising upwards of four hundred miles of track leading from Portland via the east side of the Willamette River to Ashland, near the southern boundary of this State, with a branch from Albany to Lebanon, and from Portland via the west side of said river, to Corvallis.

On February 20, 1885, the Legislative Assembly of the State of Oregon passed an Act entitled "An Act to regulate the transportation of passengers and freight by railroad corporations," which will take effect, by operation of the Constitution, on May twenty-first. On April twenty-third, the receiver presented a petition to this Court, asking for instructions concerning his duty in the management of said property in certain particulars covered or affected by said Act, which he says he is advised by his counsel is unconstitutional and void.

The Act is very verbose and unskillfully drawn, but so far as it relates to the matters about which the receiver seeks direction, it may be briefly stated as follows:

1. The fare for the transportation of passengers shall in no case exceed 4 cents a mile.
2. All charges for transporting property shall be reasonable, but the rate charged on January 1, 1885, by any corporation, shall be its maximum rate.
3. "No greater or less" compensation shall be charged one person than another "for like and contemporaneous service" in transporting property.
4. No rebate or drawback shall be allowed in any case except when property is shipped for points beyond the limits of the State.
5. Pooling freight or dividing the earnings of "different and competing" railways is prohibited.
6. No greater rate shall be charged for carrying similar property a short haul than a long one, in the same direction.

Any person who violates any provision of the Act is made liable to the person injured in treble damages and a fine of \$1,000. * * * It is commonly understood that now and prior to the passage of the Act, the fare between Portland and Albany, Lebanon and Corvallis, was 4½ cents a mile; between Albany and Roseburg, 6 cents; and between Roseburg

and Ashland, 7 cents; and on mileage tickets between Portland and Oregon City, 2 cents a mile; between Portland and Albany, and Lebanon, 3 cents, and all other points 4 cents a mile. Owing to the increased cost of operation, and the limited population and travel, it is probably true that a rate which would be reasonable in the Willamette Valley would not pay expenses to the south of it. * * * While the road remains in the hands of a receiver of this Court, it is not desirable that there should be any conflict between its management and the policy of the State, except when the latter is clearly contrary to the legal right and substantial interest of the road. * * * As to the matter of long and short hauls, the question although *prima facie* one of discrimination, directly involves the right to a reasonable compensation. I assume that the State has the power to prevent a railway company from discriminating between persons and places for the sake of putting one up or another down, or any other reason than the *real exigencies of its business*. * * *

* The provisions of this Act that I have condensed in paragraphs 3, 4, and 6 aforesaid, are intended to prevent this practice.

But where the discrimination is between places only, and is the result of competition with other lines or means of transportation, the case, I think, is different. For instance, the Act prescribes a reasonable rate for carrying freight between Corvallis and Portland, or from either to points intermediate thereto. But Corvallis is on the river, and has the advantage of water transportation for some months in the year. The carriage of goods by water usually costs less than by land, and as water craft are allowed to carry at a rate less than the maximum fixed for the railway, they will get all the freight from this point, unless the latter is allowed to compete for it. But, if to do this, it must adopt the water rate for all the points intermediate between Portland and Corvallis, where there is no such competition, it is in effect required to carry freight to and from such points at a less rate than that which the Legislature has declared to be reasonable, or else give up the business at Corvallis altogether. And the same result would follow as to Salem, and other points on the east and west side lines, where there is convenient access to water transportation. If the Legislature cannot require a railway corporation, formed under the laws of the State, to carry freight for nothing, or at any less rate than a reasonable one, then it necessarily follows that this provision of the Act cannot be enforced, so far as to prevent the railway from competing with the water craft at Corvallis and other similarly situated points, even if in so doing they are compelled to charge less for a long haul than a short one in the same direction. It is not the fault or contrivance of the railway that compels this discrimination, but it is the necessary result of circumstances altogether beyond its control. It is not done wantonly for the purpose of putting the one place up or the other down, but only to maintain its business against rival and competing lines of transportation. In other words, the matter, so far as the railway is concerned, resolves itself into a choice of evils. It must either compete with the boats during the season of water transportation, and carry freight below what the Legislature has declared to be a reasonable rate, or abandon the field, and let its road go to rust.

Nor can the shipper at the non-competing point, or over the short haul, complain so long as his goods are carried at a reasonable rate. It is not the fault of the railway that the shipper who does business at a competing point has the advantage of him. It is a natural advantage, which he must submit to, unless the Legislature will undertake to equalize the matter by prohibiting the carriage of goods by water for a less rate than by rail. And when this is done the inequalities of distance, as well as place, may also be overcome, by requiring goods to pay the same rate over a short haul as a long one, and then the shipper at Ashland will be as near the market as any one.

As to the interchange of freights with the Oregonian Railway Company, the case stated in the petition does not seem to be one of pooling freights or dividing earnings, but rather a case of a long haul at a less rate than a short one in the same direction, to meet the contingency of river competition at Ray's or Fulquartz's Landing. Pooling freights or dividing earnings is resorted to by rival and competing lines of railway as a means of avoiding the cutting of rates, which, if persisted in, must result in corporate suicide. It is not apparent how a division of the earnings of two such roads can concern or affect the public, so long as the rate of transportation on them is reasonable. But assuming what is not admitted, that the Legislature has the power to prohibit the practice, the Oregon and California and the Oregonian railways do not appear to be competing ones, but rather supporting ones—the latter serving as a feeder, branch, or continuation of the former. Nor is the arrangement between them a pooling one, but simply one by which each carries for the other at a fixed price per ton per mile. There is nothing in the arrangement which prevents the receiver from doing a "like service" for any one else on the same terms, and I have no doubt he would be glad to.

The receiver is instructed—

(1.) To carry passengers at a rate not exceeding four cents a mile on any portion of the road, and for as much less on the whole or any part thereof as he may think advisable.

(2.) To charge no more for the carriage than the maximum allowed by the Act, nor no more for a short haul than a long one in the same direction, except to and from points where the rate obtainable is affected by water transportation, in which case he may carry at as low a rate as the water-craft do, without reference to the length of the haul.

(3.) To continue the interchange of freight with the Oregonian Railway on the footing of the present arrangement as long as he may think advisable.

(4.) In the discharge of his duties to otherwise obey and conform to the provisions of the Act.

THE BEGINNING OF CONTROVERSY BETWEEN THE COMMISSION AND THE ATLANTIC AND PACIFIC COMPANY, NOW OWNING AND OPERATING THE SOUTHERN PACIFIC ROAD FROM THE NEEDLES TO MOJAVE, IN THIS STATE.

The official record of this controversy for 1884, will be found in the report of the Commission for that year, pages 16, 17, and 18, as follows:

THE ATLANTIC AND PACIFIC RAILROAD COMPANY, A FOREIGN CORPORATION, OPERATING A ROAD IN CALIFORNIA.

From and since October 1, 1884, the Atlantic and Pacific Railroad Company, a foreign corporation, having its principal place of business at Albuquerque, in New Mexico, has operated the Southern Pacific Railroad, Colorado Division, a distance of two hundred and forty and thirteen hundredths miles, from Mojave to The Needles, in this State. The schedule rate for passenger fare between said stations is six cents. Being informed that said company was charging eight cents per mile, supposed to be its New Mexican rate, between said stations, the Secretary of this Commission was directed to inquire of W. C. Dennison, General Freight and Passenger Agent of said New Mexican road, as follows:

OFFICE OF THE STATE BOARD OF RAILROAD COMMISSIONERS, }
SAN FRANCISCO, October 16, 1884. }

W. C. DENNISON, Esq., *General Passenger and Ticket Agent, Atlantic and Pacific Railroad Company:*

DEAR SIR: Will you, at your earliest convenience, oblige this Board with a copy of your local passenger tariff, now in force over the road under your management from Mojave to The Needles.

Yours respectfully,

W. R. ANDRUS, Secretary of the Board.

The reply received is as follows:

ALBUQUERQUE, N. M., October 20, 1884.

W. R. ANDRUS, Esq., *Secretary Board of Railroad Commissioners, San Francisco:*

DEAR SIR: Replying to yours of the sixteenth instant, our passenger tariff between The Needles and Mojave is eight cents per mile. We are operating this portion of the road under United States Government charter.

Yours truly,

W. C. DENNISON, G. P. A.

At the next meeting of this Commission, letters were read from Colonel J. J. Tobin to Commissioners Carpenter and Foote, complaining of an overcharge by said Atlantic and Pacific Railroad Company, on said division, of two cents per mile in excess of schedule rates.

Thereupon, to ascertain if said offending company had filed in the office of Secretary of State, of this State, the designation of some person upon whom process against said company might be served, as required by the Act of April 1, 1872, Commissioner Carpenter introduced an order, which was adopted, as follows:

"It is hereby ordered that T. L. Thompson, Secretary of State, be and is hereby requested to furnish this Commission a certified copy of any statement filed in his office by the Atlantic and Pacific Railway Company, a foreign corporation doing business as a common carrier in this State, designating its principal place of business therein, and some person upon whom process issued by authority thereof may be served.

"And the Secretary of this Commission is hereby directed, upon the receipt of such statement, to transmit to the person designated as the proper officer of said company, at his place of business, for correction or explanation, the letter of Colonel J. J. Tobin, complaining of an overcharge for passenger fare on the road operated by said company in this State."

In answer to a letter by the Secretary, as directed, the reply is as follows:

STATE OF CALIFORNIA, SACRAMENTO, December 5, 1884.

W. R. ANDRUS, Esq., *Secretary Railroad Commissioners, San Francisco:*

DEAR SIR: In response to your communication first instant, inclosing Order 21 of the Board of Railroad Commissioners, I have the honor to inform the Commission, through you, that the records of this office show no statement filed by the Atlantic and Pacific Railway Company upon whom process may be served.

Very respectfully,

THOS. L. THOMPSON, Secretary of State.

Thereupon it was ordered by the Commission that its Secretary should inquire by letter directed to W. C. Dennison, General Freight and Passenger Agent of the Atlantic and Pacific Railroad Company, residing at Albuquerque, New Mexico, what rates of fare his company were charging in this State; and should also transmit to him the letters of Colonel Tobin.

To this inquiry and reference the answer is as follows:

ALBUQUERQUE, N. M., December 2, 1884.

W. R. ANDRUS, Esq., *Secretary Board of Railroad Commissioners, State of California*:

DEAR SIR: Your letter received. Our passenger rate over the California Division, Needles to Mojave, has been six (6) cents per mile since October twenty-first.

If Mr. J. J. Tobin will send his receipts to me, the excess paid by him will be refunded.

Yours truly,

W. C. DENNISON, General Passenger Agent.

This last official note would seem to end the controversy. The offending company has returned to schedule rates, and will refund, as an overcharge, what it has received in excess of them.

If there was an overcharge, it was so because in excess of established rates then in force. Considered, therefore, as an assurance of "indemnity for the past and security for the future," whether made under cover of a United States Government charter, or none at all, is wholly immaterial.

It was so from the beginning. Whether as purchaser or lessee, the newcomer took the road it is operating in this State, subject to its laws, and with notice of the charter and corporate obligations of its predecessor in interest. Subject to State control, as to all except interstate traffic, it is the corporate obligations and relations of the grantor or lessor that must govern the franchise and its public use. In *Brown vs. The Railroad Company*, 17 Wall. 445, the Court say: "It is the accepted doctrine in this country that a railroad corporation cannot escape the performance of any duty or obligation imposed by its charter, or the general laws of the State, by a voluntary surrender of its road into the hands of lessees."

For analogous cases and same doctrine see *Thomas vs. The Railroad Company*, 101 U. S., 83; *York and Maryland Line Railroad Company vs. Winans*, 17 Howard, 30. Without absolving the chartered grantor or lessor, a new party is admitted to its relations with the community, and is bound by them. (*Campbell vs. M. and C. R. R. Co.*, 22 Ohio R. 168.) "The remedy against the lessee is cumulative only." (*Bower vs. The B. and S. W. R. R. Co.*, 42 Iowa.)

PROCEEDINGS OF THE COMMISSION RELATING TO THE ATLANTIC AND PACIFIC COMPANY IN 1885.

On the sixth day of August, 1885, on motion of Commissioner Carpenter, it was ordered as follows:

BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA.

The Secretary of this Commission is hereby directed to transmit by mail to W. A. Bissell, Pacific Coast Freight Agent of the Atlantic and Pacific Railroad Company, at his office in the City of San Francisco, an attested copy of the communication following:

DEAR SIR: The Board of Railroad Commissioners of the State of California respectfully request answers in writing to the questions following:

First—At what time, upon what terms, and by what title did your company take possession and assume the management of that line of road, 242.8 miles in length, extending from the Colorado River to Mojave, in this State, and known as the Mojave Division of the Atlantic and Pacific Railroad?

Second—Are the management and operation of said division by purchase or lease, distinct and separate from those of other roads in this State?

Third—What traffic, trackage, or prorating agreements, if any, has said division with other roads in this State?

Fourth—What cause, if any, can be shown why the schedule of freight charges and classifications, established and in force upon said division at the date of its transfer to your company, should not now be maintained and enforced?

Fifth—If to show such cause as your company may have, you desire to appear before the Commission, at what time will it be convenient for you to do so?

Answers to the foregoing questions at your earliest convenience are respectfully requested, as per order of the Commissioners.

Very truly,

W. R. ANDRUS, Secretary.

On the first day of September, 1885, W. A. Bissell, Pacific Coast Freight Agent of the Atlantic and Pacific Railroad Company, appeared in person at the office of the Commission, and submitted for examination and approval the tariff of freight rates and amended classification thereafter considered and approved.

Commissioners Humphreys and Carpenter being present, he read to them the written agreement between his company and the Southern Pacific Company, showing substantially what is more fully stated in the communication of Solicitor J. A. Williamson, which is hereinafter inserted as a part of this record.

On the nineteenth day of August, 1885, by order of the Commission, the Atlantic and Pacific Railroad Company was required to make its annual report to this office in the usual form as follows:

STATE OF CALIFORNIA, OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS, }
SAN FRANCISCO, August 19, 1885. }

To Atlantic and Pacific Railroad Company:

The accompanying blanks for annual report are to be filled up and returned to this office on or before the fifteenth day of October, 1885.

By order of the Board of Railroad Commissioners.

Per W. R. ANDRUS, Secretary.

P. S.—Extra copies of blanks can be had at this office if desired.

To the foregoing requirement the reply of the company, declining to comply therewith, was received and filed in this office on the sixteenth day of October, as follows:

ATLANTIC AND PACIFIC RAILROAD COMPANY LAW DEPARTMENT, ALBUQUERQUE, }
NEW MEXICO, October 10, 1885. }

To the Board of Railroad Commissioners, 320 Sansome Street, San Francisco, California:

GENTLEMEN: Your printed form of letter, dated August 19, 1885, signed by W. R. Andrus, transmitting blank form of annual report of the Colorado Division of the Atlantic and Pacific Railroad Company, for the year ending December 31, 1884, has been referred to me by Henry C. Nutt, President of the company, with instructions to write to the Commissioners, giving them in a courteous manner the reasons for not making the report asked for.

In obedience to this instruction, I have the honor to very briefly set forth the reasons which appear to me to be sufficient in law for not undertaking the somewhat difficult task of making the report required, until by correspondence or otherwise, it shall be shown to be a duty.

The Atlantic and Pacific Railroad Company was chartered and created a body politic and corporate by Act of Congress approved July 27, 1866, entitled "An Act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast." (14th Statutes, 292.)

Among the various grants of land, right of way, powers, and privileges conferred on said company by said Act, those hereinafter set out in quotations from the charter are submitted for your consideration:

"Section 3. * * * *Provided*, that if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount heretofore granted shall be deducted from the amount granted by this Act; *provided further*, that the railroad company receiving the previous grant of land may assign their interest to said Atlantic and Pacific Railroad Company, or may consolidate, confederate, and associate with the said company, upon the terms named in the first and seventeenth sections of this Act."

In pursuance of the right conferred by this provision of the charter, the Atlantic and Pacific Railroad Company did, on the twentieth day of August, 1884, enter into contract with the Southern Pacific Railroad Company, for the purchase of $242\frac{3}{4}$ miles of railroad, constructed by said Southern Pacific Railroad Company, between a point called The Needles, on the Colorado River, and a station on said Southern Pacific Railroad called and known as Mojave, by which it acquired ownership and control of said $242\frac{3}{4}$ miles of railroad.

On the first day of October, 1884, the Southern Pacific Railroad Company turned over to the Atlantic and Pacific Railroad Company the railroad purchased by it between the Colorado River and Mojave, and the said last named company has since that time operated said railroad.

In consequence of the fact that the Southern Pacific Railroad Company had incumbered said road, so sold to the Atlantic and Pacific Company, with a mortgage from which it could not readily be released, the last named company pays an amount equal to the interest on the unpaid part of the purchase money, at the rate of six per cent per annum, to the Southern Pacific Railroad Company, and will continue to pay such sum until the road is freed from incumbrance and the transfer fully completed.

The above fact is stated so that it may appear clearly that no evasion or concealment is intended.

Section 11 of the charter is as follows:

"Section 11. *And be it further enacted*, That the said Atlantic and Pacific Railroad, or any part thereof, shall be a post route and military road, subject to the use of the United States for postal, military, naval, and all other government service. And also subject to such regulations as Congress may impose, restricting the charges for such government transportation."

It will be seen by this section that Congress exercised a right that cannot be successfully disputed as belonging to it, viz.: that of chartering and by an agent constructing a railroad, and declaring the same, or any part thereof, to be a post route and military road and subject to the use of the United States for postal, military, naval, and all other government service.

The thirteenth section of the charter reads as follows:

"Section 13. *And be it further enacted*, That the Directors of said company shall make and publish an annual report of their proceedings and expenditures, verified by the affidavits of the President, and at least six of the Directors, a copy of which shall be deposited in the office of said Secretary of the Interior; and they shall, from time to time, fix, determine, and regulate the fares, tolls, and charges to be received and paid for transportation of persons and property on said road, or any part thereof."

It will be seen that this section provides that the Directors of the Atlantic and Pacific Railroad Company shall report to the Secretary of the Interior; that the Directors shall, from time to time, fix, determine, and regulate the fares, tolls, and charges to be received and paid for transportation of persons and property on said road, or any part of it.

The language of this section is very clear and concise. And if Congress had the right to delegate this authority solely to the Directors of the company, it will not be claimed that they can be deprived of it by an Act of the Legislature of the State of California.

It is not denied that Article XII of the Constitution of the State of California, and the laws passed by the Legislature in pursuance of said article, are in conflict with the rights claimed to be conferred by the charter of the Atlantic and Pacific Railroad Company upon its officers and Directors; and the question arises as to which is the paramount authority.

It is claimed by the Atlantic and Pacific Company that Congress has the right to charter a company to construct a railroad, declared by it to be a post route and military road, and to its control at all times, and consequently it must refuse to recognize the alleged authority on the part of the State of California, to demand reports of all its acts and doings, to regulate its rates of freights and fares, and to supervise its acts in matters especially named and delegated by Congress to its Directors.

Section 20 of the charter is as follows:

"Section 20. *And be it further enacted*, That the better to accomplish the object of this Act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the government at all times, but particularly in time of war, the use and benefits of the same for postal, military, and other purposes, Congress may at any time, having due regard for the rights of said Atlantic and Pacific Railroad Company, add to, alter, amend, or repeal this Act."

Nothing is more clear than the intention of Congress, as expressed in this section, to always keep control of this road, and to make such amendments and alterations in its charter as it may from time to time see proper, having due regard to the rights of the stockholders, who are declared to form the body politic and corporate.

Relying upon the provisions of the charter, herein set out, as being sufficient to show that the Atlantic and Pacific Company is exempt from supervision by the Board of Commissioners of the State of California, I have thought it unnecessary to enter upon a discussion of the power of Congress to create a corporation to aid the general government in the performance of functions and powers reserved to it by the Constitution.

The decisions of the Supreme Court during the past twenty years, which might be cited, and the text-books by able authors founded upon these decisions, serve to render such discussion unnecessary at this time.

The Atlantic and Pacific Railroad Company, as before stated, is required by law to report to the Secretary of the Interior, on blanks approved and furnished by his department, and to that end and for the purpose of lessening the labor and facilitate the making of such reports, the books of the company are so arranged that abstracts from them form the report.

The report which you require is so entirely different in its form as to require a change in the manner of keeping the books of the company, and would involve so much labor that it is impracticable to make the report as an act of courtesy.

I do not doubt that the company will take pleasure in furnishing you, as an act of courtesy, with a copy of such reports as it has made to the honorable Secretary of the

Interior, since it has acquired the road designated by you as the Colorado Division of the Atlantic and Pacific Railroad, if you so desire.

Very respectfully,

J. A. WILLIAMSON, General Solicitor.

At a meeting of the Commission on the twenty-ninth day of December, 1885, Commissioner Carpenter presented an answer to the foregoing communication, which being adopted and signed by Commissioners Humphreys and Foote, the Secretary was directed to file it in the office and to forward by mail a certified copy to J. A. Williamson, General Solicitor Atlantic and Pacific Railroad Company, at Albuquerque, New Mexico. The answer being fully concurred in by all the Commissioners, excepting only the dissent of Commissioner Foote to what is said therein in support of differential as opposed to uniform rates of fare and freight, it may be taken as a unanimous judgment upon all other subjects to which it relates, and is as follows:

BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA, AT OFFICE IN THE }
CITY OF SAN FRANCISCO, December, 1885. }

To J. A. Williamson, General Solicitor Atlantic and Pacific Railroad Company:

DEAR SIR: To your communication of October tenth, received and filed in this office October 16, 1885, we submit the following reply. You inform us that our formal requisition upon your company for an annual report of its business and operations in this State was referred to you with instructions to state "in a courteous manner the reasons for not making the report asked for." You premise as follows: "In obedience to this instruction, I have the honor very briefly to set forth the reasons which appear to me to be sufficient in law for not undertaking the somewhat difficult task of making the report required until by correspondence, or otherwise, it shall be shown to be a duty."

While reciprocating the courtesy which is always in order, we respectfully demur to the ambiguity of a refusal to report, "until by correspondence, or otherwise, it shall be shown to be a duty." Reasons "sufficient in law" to exempt your company from State control, are clearly inconsistent with any binding duty of which we can take official cognizance. And if there be, as you strenuously insist, no binding obligation to report as required, it is because, as officers of the State, we can make no order in the premises which your company is bound to respect.

The issue thus distinctly tendered in argument, involves the governing relations of the State with your company as a common carrier within its borders. As presented, it rests upon the theory that by special legislative delegation of the power by which a railroad company has been organized and is doing business as a common carrier in this State, it may be invested with the specific powers to which it would otherwise have been subject, and thus emancipated therefrom; and that by authorized consolidation with a Federal corporation, the company thus created may take by purchase and operate the road of its California constituent, subject only to its own delegated authority, and the ultimate power of repeal and regulation reserved by and conceded to the Government of the United States.

Take it in connection with the law and the facts of the case we are considering, in substance as you have made it. With a diplomatic domicile in which it is both at home and abroad, your company declines to report, as required, because it is a foreign corporation, "chartered and created a body politic and corporate by Act of Congress, approved April 27, 1866," to which our attention is invited.

Briefly summarized, it outlines from a designated point in Missouri to an undetermined terminus on the Pacific Coast, a continuous line of railroad, to be forever "subject to the use of the United States, for postal, military, naval, and all other government service, and, also, subject to such regulations as Congress may impose, restricting the charges of such government transportation." To construct and operate such a road, the Atlantic and Pacific Railroad Company is invested with corporate life and functions, with grants of land and necessary rights of way, with capacity and power to take to and for its own use any additional "grant, donation, loan, franchise, aid, or assistance," by or from the United States, any State, any corporation, person or persons, or any Indian tribe or nation, through whose reservation the contemplated road should run; and also, upon certain conditions, to "consolidate, confederate, and associate," with other companies as a common carrier of State and interstate commerce.

LIMITATIONS OF FEDERAL POWER.

Within its purview and the limitations of Federal power, the Act also authorizes and requires the corporation which it creates, to make certain annual reports, properly verified, to the Secretary of the Interior; and from time to time, by its officers and Directors, to "fix, determine, and regulate the fares, tolls, and charges to be received and paid for the transportation of persons and property on said road, or any part thereof."

These and other corporate powers, privileges, rights, and franchises, coupled with the stipulated servitude, before specified, as a condition subsequent, are granted and guaranteed, subject to their acceptance in writing by the Atlantic and Pacific Railroad Company, as a contracting party, under its corporate seal.

To have the whole case as it stands upon its statutory premises it should be further stated that Section 18 of the Act upon which you rely, provides that the Southern Pacific Railroad Company, the California corporation from which your company purchased the Colorado Division of its road, may "connect with the said Atlantic and Pacific Railroad," and "shall have a uniform gauge and rate of freight or fare with said road," and "shall have similar grants of land, subject to all the conditions and limitations herein provided."

The Legislature of California, by a curative Act, approved April 4, 1870, confirmed to and vested in the said Southern Pacific Railroad, "its successors and assigns, all the rights, privileges, franchises, power, and authority, conferred upon, granted to, or vested in said company, by the said Act of Congress, or any Act of Congress which may hereafter be enacted." (Statutes of California, 1870, p. 883.)

Assuming that by these charter relations of your company to the Federal Government it is exempted from State control and commissioned to manage its own affairs, you postulate a conflict of jurisdiction as follows: "It is not denied that Article XII of the Constitution of the State of California, and the laws passed by the Legislature in pursuance of said article, are in conflict with the rights claimed to be conferred by the charter of the Atlantic and Pacific Railroad Company upon its officers and Directors, and the question arises as to which is the paramount authority."

"It is claimed by the Atlantic and Pacific Company that Congress has the right to charter a company, to construct a railroad declared by it to be a post route and military road, subject to use by the Government of the United States, and to its control at all times, and consequently it must refuse to recognize the alleged authority on the part of the State of California to demand reports of all its acts and doings; to regulate its rates of freights and fares, and to supervise its acts in matters especially named and delegated by Congress to its Directors."

This is a full and fair review of the Act cited and of the positions taken in your concise and able argument. To begin the alleged "conflict," you say it is not denied. This is equivalent to saying that Article XII of the Constitution and the laws passed in pursuance thereof, are distinct declarations of State control in the premises, and must be presumed to mean what they declare.

CAREFUL NOT TO PROVOKE A CONFLICT.

While we have never confessed nor avoided the alleged conflict, we have, in the exercise of ordinary prudence, preferred to have it come, if at all, without our fault. We have been careful, therefore, not to provoke or induce judicial proceedings by unreasonable measures, which might defeat their own purpose and prejudice the rights of the State. Upon general principles of policy and justice, we have steadily adhered to the doctrine of differential and reasonable, as opposed to uniform rates, of fares and freights; and have as steadily repudiated arbitrary lumping reductions, made, if at all, without labor or knowledge, regardless of the varied conditions and practical vicissitudes of railroad service. Thus, when your company entered into possession of its Colorado road, it found in force thereon a schedule of passenger fares dictated by the exceptional hazards and hardships of the service to which it applied. We shall not, therefore, be responsible for the controversy now threatened, and having nothing to reconsider or retract, can rely with confidence upon rules of practice and decision long and uniformly sanctioned by the Courts of last resort.

If to these reflections it be replied that your company assails the office and not the officer, we accept the apology, but would suggest that it aggravates the assault. Had it been confined to the administration of the office, it might have been justified by the occasion. The alleged difficulty of reporting in the form prescribed, not contemplated by your system of accounts and abstracts, and much of which, as was stated in our last report to the Governor of the State, is comparatively irrelevant and immaterial, deserves our respectful consideration. The form was not made to fit a set of books, and we presume that no system of accounting corresponds with all of its inconsequential calls. It is an overdone legislative substitute for something worse, the only merit of which, was its deserved failure. In some respects it is like a pettifogger, searching for some theory of his case by a crazy cross-examination of an unwilling witness called by himself. Thus, it calls for annual repetitions of accomplished facts, as contradistinguished from the essential units and factors of railroad service and regulation, always relating to the present and the future.

MEN CAN COMMUNICATE ONLY WHAT THEY KNOW.

It does, however, like the later provisions of the Constitution and law creating and organizing the Railroad Commission, proceed upon the natural and legal presumption, that men can communicate only what they know; and that those engaged in farming, mining, merchandising, or operating railroads, and minding their own business, must know more about it than all the standing political witnesses and experts who ever took upon themselves the secondary supervision of railroad affairs.

Thus, the law itself, for the best of reasons, determines the source of the best, if not the only evidence, of facts and figures relevant and material to the actual business and intel-

ligent supervision of railroads. It expressly refers us to your company for the only available information concerning its affairs, as a common carrier, in this State. It also prescribes the process and methods by which it may be required and supplied. The verified annual report is in the nature of a deposition, intended and generally regarded as a convenience to the companies by which it is made and returned. But, in the absence of the required report, we can avail ourselves of another method, and put the officers and agents of the defaulting company, with books and papers, on the witness stand before us. For this purpose we have the same powers as Courts of record, and our process runs to the borders of the State. In consideration, therefore, of the alleged difficulty of reporting in the usual form, your company may consult its own convenience, by a choice of the methods presented, if made within a reasonable time.

In the spirit of your suggestion and apparent desire, we have been at some pains to present the reason for our action. It remains for your company to determine what course it will pursue. The Constitution and law by which this Commission was created and organized, are the criterions of our official duty. In the exercise of a power clearly incidental to others, which you dispute, we assert their existence, which you deny. We exercise them as officers of the State, in which it is tacitly admitted that they resided prior to their alleged delegation by the Disabling Act of April 4, 1870. Their denial, therefore, rests entirely upon the congressional and legislative Acts which have been cited, and by virtue of which your company claims to be not only exempt from State control, but a self-governing, free agent, authorized to fix its own compensation for all service, save such as it performs for the Federal Government, which is a preferred shipper and a titular sovereign, with reserved, regulating, and repealing powers, thus far in abeyance.

THE SCEPTER OF STATE.

Squeezed into its shortest statement, we take the result of your reasoning upon the law and facts to be, that your company, with the constituent corporations of which it is composed, has not only passed from under, but now wields over its own road and business, the scepter of the State, subject only to the unlineal grasp of the Federal Government.

This is not one of the many cases in which the exemption of a railroad from taxation or other public burden follows it into the hands of a purchaser or into a consolidated company, to which its benefits inure. It is not analogous to the adjudged cases in which the State, by charter, granted in accordance with law, has exempted a corporation and is thereby estopped from the exercise of acknowledged administrative and remedial powers. But this, if anything, is such a grant by concurrent congressional and legislative Acts as takes the power touching the subject-matter out of the State, leaving nothing on which to predicate exemption. By and with the alleged consent of the State, it takes the emancipated company, with its preëxisting constituents, one of which was chartered and is doing business in this State, under the laws thereof, out of our jurisdiction, and substitutes for State control corporate self-government under a Federal protectorate. And as every common carrier in the State which now sustains or may hereafter assume like contract relations and obligations to the Federal Government may make a case on all fours with that of your company, we take the legal scope and effect of your conclusion to be that the State, without official function or leg to stand upon, may be left at the next station.

Nevertheless, as constitutional arbiters between your company and the State, and the partisans of neither, we shall continue to exercise the disputed power, and must, upon proceedings of record, in a proper case and in the first instance, determine for ourselves the question of jurisdiction. And until it shall take the form of a test case, to be decided by other judges, we shall adhere to the rule we have prescribed for ourselves, and publish no gratuitous or ex parte opinions. Thus, our comments upon your exhaustive argument have been directed, as invited, to the alleged merger by congressional and legislative Acts, of State jurisdiction in that of the nation, and to the resulting special privileges and immunities so confidently assumed. And in this connection we again demur to the alleged interchange of jurisdictions and parties, by which the contesting company puts in an appearance for all concerned. Of the high contracting sovereigns, whose concurrent incorporating acts are cited in its behalf, we represent the one which is alleged to have abdicated in its favor. They are fellow-passengers on its cars, and both contribute to its revenue. Without confusion of government or goods, the State pays the sum of the locals, subject to its control, and gets off at The Needles. The Federal Government, as a preferred shipper, with a through ticket, is potentially present with every cargo and carload of interstate commerce on sea, and land, but in the pending conflict of authority, is "conspicuous by its absence."

RELATIONS OF THE FEDERAL GOVERNMENT.

There is no occasion for its intervention. Its relations to the overland railroad companies are those of a sovereign and a contractor. As a sovereign for national purposes, it has chartered and aided some of them in the construction of their roads, and has stipulated for services to the Government, conditioned upon land subsidies and loans of credit, for which neither the State nor the nation can exact or sponge any other or different service. Within its own sphere of action, which cannot be enlarged by the concurrence of the State, it has the power "to regulate commerce among the several States," and may revise and establish railroad tariffs upon interstate transportation of persons and property. To its forbearing exercise of such power, we owe the Act of July 15, 1866, suggested by railroad managers, authorizing the connection of State roads in continuous lines for

through traffic; the Act of October 1, 1873, relating to the treatment of live stock *in transitu* from State to State, and also a small family of enactments relating to the right of way and construction of railroads and bridges across navigable rivers. Keeping thus within the limits and beneficial exercise of its undisputed powers, it has regulated railroads less by law than by contract, and has patronized more than it has governed them. And by all the presumptions of law and fact, it was within the same impassable confines of Federal authority and in pursuance of the same liberal policy, that Congress invested your company with the revocable supervision of its own charges for all interstate service, save such as should be performed for the Government. The measures and policies by which your company has been thus fostered and favored by the nation, and taken into its postal and military service, have had and now have the approving concurrence of this State. For the location, construction, and consolidation of the roads which it now owns and operates, there was concert of action between the State and Federal Governments, and there has been and is no conflict of authority between them. But your company puts the question: "Which is the paramount authority?" Our answer is that within their separate and distinct spheres of action they are respectively supreme, and that in their governing relations to the subject-matter, neither outranks the other. A thousand adjudged cases are condensed in two sentences, as follows: "In America the powers of sovereignty are divided between the government of the Union and those of the States. They are each sovereign with respect to the objects committed to it; and neither sovereign with respect to the objects committed to the other." (4 Wheaton, 410.) A later case brings the same doctrine home, as follows: "The sovereignty of the State extends to everything which exists by its own authority, or is introduced by its permission." (*Transportation Company vs. Wheeling*, 99 U. S.) In connection with these cases it is enough to cite the familiar rule of decision, which reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." (U. S. Constitution, Art. X of amendments.) Here is no splicing or sur-rendering of State or national sovereignty, and none is possible. Hence it is, we presume, that you have not referred us to the special Enabling Act of April 4, 1870, and have chosen not to complicate your case with its constitutional infirmities.

THE CONSTITUTION OF CALIFORNIA.

For any other purpose than to facilitate and legalize the relocation and construction of the local road to which it relates, it would seem to be very decidedly in derogation of the general laws, and prohibited by the Constitution of the State, as follows: "Corporations may be formed under general laws, but shall not be created by special Act, except for municipal purposes. All general laws and special Acts passed pursuant to this section may be altered, from time to time, or repealed." (Art. IV, Sec. 31.) Except, therefore, as to executed conditions precedent to the ownership and operation by your company of its road in this State, the Act in question is unconstitutional and void, and as foreign to the subject as Maximilian's empire.

We take the status and domestic relations of your company as a common carrier in this State to be precisely those of its predecessor in interest.

"It is the accepted doctrine in this country that a railroad corporation cannot escape the performance of any duty or obligation imposed by its charter or the general laws of the State, by the voluntary surrender of its road into the hands of lessees." (*Brown vs. The Railroad Company*, 17 Wall. 445.) "Without absolving the grantor or lessor chartered by the State, a new party is admitted to its relations with the community, and is bound by them." (*Campbell vs. M. & C. R. R. Co.*, 22 Ohio R. 168.) "The remedy against the lessee or grantee is cumulative only." (*Bower vs. The E. & S. W. R. R. Co.*, 42 Iowa.) For analogous cases relating to the change of ownership and operation of railroads by lease, foreclosure, and consolidation, we cite the following: *Thomas vs. The Railroad Company*, 101 U. S. 83; *York and Maryland Line Railroad Company vs. Winans*, 17 How. 30; *People vs. Albany and Vermont Railroad Company*, 19 How. 523; *Rex vs. Severn and Wyl. Railroad Company*, 2 Barn and Ald. 646; *People vs. Troy and Boston Railroad Company*, 37 How. 407; *People vs. N. Y. Central and Hudson River Railroad Company*, 28 Hen. 543; *Abbot, Administrator, vs. Johnstown, Groverville, and Kingsboro Railroad Company*, 80 N. Y. 27. In its own time and way your company assumed these relations to the State. It cannot, therefore, be heard to say that they are *ultra vires*, or in any respect repugnant to its national extraction, or obligations to perform certain Government service.

CHARTER OF THE ATLANTIC AND PACIFIC.

We find nothing in its charter restricting it to such service, nor subjecting it to fine, forfeiture, or other penalty for pooling, prorating, and competing with all other common carriers for any and all public and private patronage. Within the limited and specific scope and purpose of its statutory contract with the Government, its special rights and privileges, express and implied, both in and out of the State, are and ought to be inviolable. And it is not disputed that a constitutional agency of the Federal Government may be exempted from such taxation, regulation, or other exercise of State sovereignty as would defeat or jeopardize its purposes or efficiency. But we have the highest authority for saying: "The principle we are discussing has its limitations—a limitation growing out of the necessity on which the principle itself is founded. That limitation is that the agencies of the Federal Government are only exempted from State legislation so far as

that legislation may interfere with or impair their efficiency in performing the functions by which they were designed to serve the Government. Any other rule would convert a principle founded alone on the necessity of securing to the Government of the United States the means of exercising its legitimate powers into an unauthorized and unjustifiable invasion of the States. * * * It is only when the State law incapacitates these agencies from discharging their duties to the Government that it becomes unconstitutional." (*National Bank vs. Commissioners*, 9 Wall. 353.)

THE COMPANY CONGRATULATED.

In conclusion, your company has our sincere congratulations upon the assured success of its adventurous and progressive enterprise. As a corporation without scalp to take or throat to cut, it has passed safely through forbidding solitudes and savage tribes to run the gauntlet of competing forces in a civilized commonwealth; and subject to its laws, should be exempt from unfriendly and embarrassing regulations. In a State which has had, and will forever have everything to gain and nothing to lose by the great overland roads converging within its borders, their national purposes and local benefits are, fortunately, too apparent and important to be successfully impugned or seriously endangered. With the whole boundless continent and its teeming territories and commonwealths for their field of enterprise and development, the companies owning and operating them are not the dependent thralls of any sovereignty, nor the disinherited outlaws of any jurisdiction. Bound to the Government service stipulated in charter and contract, and to public service by the inexorable law of their existence, the service, and not the charter, determines the rightful supervision. Subject thus as competing carriers of State and interstate commerce, to regulations imposed by the State and National Governments, loyalty to each, within its separate sphere of authority, is the surest guarantee of protection by both.

Very respectfully,

G. J. CARPENTER,
WM. P. HUMPHREYS,
W. W. FOOTE,
Railroad Commissioners.

The foregoing recitals of fact and arguments cover the contest as it now stands. At the meeting last referred to, Commissioner Carpenter also presented an order to be served upon the contesting company, which was unanimously adopted, as follows:

BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA.

The Commission having under advisement and consideration the tariff of freight rates with the joint western classification of July first, as amended July 28, 1885, and filed in this office by the Atlantic and Pacific Railroad Company September 1, 1885, with the request of said company that said tariff and classification be approved and established by this Commission, upon the road of said company running from The Needles to Mojave Station, in this State, and it appearing to this Commission, the conditions of the service on said road being considered, that said tariff and classification, so far as they relate thereto, are just and reasonable.

Now, therefore, it is hereby ordered that said tariff and classification, in so far as they relate to said road and the local service thereon, be, and the same are hereby approved and established, to continue in force and effect, subject to the further order of this Commission.

And it is further ordered that said tariff of rates and classifications be and are hereby approved and established for the use and government of said company on any other road or roads in this State, over and upon which it has trackage, or traffic agreements with any other company or companies, owning or operating such road or roads, provided said rates are not in excess of those now prevailing on such road or roads. But in all cases where such rates are in excess of those charged by any other company on said road or roads, except "for the purpose of competing with any other common carrier," as provided in Article XII, Section 20, of the Constitution, they shall be reduced so as to correspond therewith, and the lowest non-competitive rates for any and all service on such roads shall prevail thereon.

It is further ordered that a certified copy of the foregoing orders be served on the managing agent of the Atlantic and Pacific Railroad Company in this State, at his office in the City of San Francisco.

MILEAGE OF RAILROADS WEST OF THE MISSOURI AND MISSISSIPPI RIVERS.

From the last number of *Poor's Manual*, and the *Official Railroad Guide* for December, 1885, the approximate mileage of all railroads west of the Missouri and Mississippi Rivers is found to be as follows:

Union Pacific	5,627
Chicago and Northwestern	542
Atchison, Topeka, and Santa Fe	1,965
Atlantic and Pacific	815
Southern Pacific Company	4,710
Denver and Rio Grande	1,685
Northern Pacific	1,666
St. Louis and San Francisco	815
Gulf, Colorado, and Santa Fe	536
Kansas City, Fort Scott, and Gulf	389
Texas and St. Louis	733
Denver and New Orleans	138
Oregon Railway and Navigation Company	656
Oregon and California	451
Utah Northern	465
Carson and Colorado	299
Utah Central	280
San Francisco and North Pacific	92
California Southern	230
North Pacific Coast	80
South Pacific Coast	76
Virginia and Truckee	53
Eureka and Palisade	84
California Northern	27
Nevada County Narrow Gauge	22
Nevada Central	93
Nevada and California	30
Pacific Coast	63
San Joaquin and Sierra Nevada	35
Sonoma Valley	22
Vaca Valley and Clear Lake	28
Nevada and Oregon	31
Total number of miles	22,728

RECENT ALIGNMENTS OF LEADING ROADS IN TRANSCONTINENTAL SYSTEMS.

The successful completion on the tenth day of May, 1869, of the first all-rail line from Sacramento to Omaha, by the junction of the Central and Union Pacific roads, might well have been regarded as glory enough for one generation. But the magical result of this first superb success is not only the magnificent array of roads which we have outlined, but a rapid succession of transcontinental connections and systems, for which the veteran railroad builders of California have been brainy and potent workers. By the junction at Deming, March first, and at El Paso July 1, 1881, of the Southern Pacific with the Atchison, Topeka, and Santa Fe road, a second transcontinental line stretched away from the Pacific to the Missouri River. On the first day of December, 1881, the Southern Pacific and Texas Pacific roads came together at Sierra Blanca, Texas, a point ninety-one miles east of El Paso; and by the connection on the first day of May, 1882, of the Texas Pacific and New Orleans roads, there was an all-rail line from San Francisco to New Orleans. By the completion on the first of February, 1883, of the Galveston, Harrisburg, and San Antonio road, from San Antonio, Texas, to the Rio Grande, where it connected with the Southern Pacific, there was formed on the twelfth of January, 1883, under one comprehensive and masterly management, the second all-rail line from San Francisco to New Orleans, and the first to Galveston. By the connection at Benson, October 25, 1882, of the Southern Pacific with the Sonora branch of the Atchison, Topeka, and Santa Fe road, there was all-rail communication between San Francisco and Guaymas. On the seventeenth of May, 1883, the Denver and Rio Grande Western Railroad (narrow gauge) reached the junction of the Central and Union Pacific roads at Ogden; and by its connection with the Denver and Rio Grande road (narrow gauge) formed

a connecting link in two all-rail continental lines—from Denver via the Burlington and Missouri road from Denver to the Missouri River, and thence to Chicago, and from Pueblo via the Atchison, Topeka, and Santa Fe road to its eastern connections on the Missouri River. The Utah and Northern road (narrow gauge), a branch of the Union Pacific, was completed November 10, 1882, from Ogden to Garrison, in Montana, where it connects with the Northern Pacific road. On the twenty-second day of August, 1883, the Eastern and Western Divisions of the Northern Pacific road were connected, and gave to the State of Oregon and Washington Territory, railway communication with the lakes and the Atlantic seaboard. By the union, November 4, 1884, of the "Oregon Shore Line," a branch of the Union Pacific road, with the Baker City branch of the Oregon Railway and Navigation system, the Union Pacific road was put in close alliance with the railways of our next door northern neighbor.

THE OREGON DIVISION OF THE CENTRAL PACIFIC RAILROAD—ITS IMPORTANCE AND PROGRESS.

Of the intersecting roads which we have briefly outlined, eleven have participated in the reciprocities of the Trans-Continental Railway Association. With one exception, by original purpose or subsequent compact, they all converge to western terminals in this State—the Northern Pacific being the only all-rail line this side of the Missouri River in which the Central and Southern Pacific have not held, in the interest of this State, a prominent position. It will be observed, also, that the Union Pacific by the "Oregon Short Line," is the only one of them which has through connections with the separate transportation systems of California, and also of Oregon and the Territory of Washington. To connect these systems and to complete the interstate connections of the central and southern groups, is the comprehensive purpose and object of the Oregon Division of the Central Pacific Railroad. By its relations to these systems, and especially to the mighty continental thoroughfares of the North, with which it will compete at the very gates of the maritime and inland commerce which they now command, it is destined to become a multipotent agency in the future progress and prosperity of this State.

It now terminates at Delta, to which it was opened for public use September 1, 1884. To make the connection in which its chief value to its owners and the State consists, there remains to be completed about one hundred and twenty-nine miles, over one of the most rugged and forbidding routes that ever challenged the energy and enterprise of its projectors. It is estimated by William Hood, Chief Engineer of the Southern Pacific Company, who is directing the work, that the cost of the first twenty miles beyond Delta will be, for bridges and masonry alone, not less than \$200,000; and that to complete the road in two years will require, besides the requisite material and machinery for expensive bridging, tunneling, and grading, a working force of five thousand men. Taking the work accomplished on the last forty miles as a rough criterion of what remains to be done, nothing but the overruling importance of the road can compensate for its cost. Following the trend of the mountains over a roadbed chiefly of solid rock, first on one and then on the other side of the Upper Sacramento River, it passes through seven tunnels, one of which measures 1,794 feet, and all of which aggregate more than 4,295 feet in length. There are on the same division of completed work seven spans of wooden bridges, ranging from 50 to 176 feet, and having an aggregate length of 862 feet, and nine spans of iron bridges, ranging from 50 to 194 feet, and

aggregating more than 953 feet in length. All these bridges are upon piers of solid masonry, and abutments of the best material and construction. There are also 21 open, 46 arch, and 138 box culverts of the most substantial masonry.

INTEREST OF CALIFORNIA IN HER RAILROADS AND THEIR INTERSTATE CONNECTIONS.

That California holds her advanced commercial and industrial rank on this coast, by virtue of her railroads, goes without saying. Because her continued precedence is staked upon them, the transcontinental systems into which they have expanded, must inevitably affect her prosperity and progress with consequences as enduring as her great hereafter. However remote from her borders, they reach and promote every interest within them. From their most distant eastern terminals they bring to their trade and commerce the largest tribute, at rates graduated by the longest hauls. With one exception, they have been perfected within the last five years, and even now they point with the certainty of manifest destiny to the subsidiary lines which they foredate and necessitate.

THE STATE AND ITS PIONEER RAILROADS BOTH MONOPOLISTS.

To trace these realized and foregone advantages from their hypothetical beginnings, would be to write an impartial and truthful history of the Central Pacific Railroad. Less than twenty years ago it was snowed under at one end, and greeted with chilling indifference at the other. By faithless financiers and the stockholders of steamship and navigation companies, it was regarded with sinister distrust. By every interested partisan of a rival route, or mountain pass, and by every newspaper that had been denied the unmerited gratuity, or patronage demanded, it was stigmatized as the "Dutch Flat Swindle." In perpetual servitude to the Federal Government for postal and military purposes, and incumbered by loans of credit to aid and insure its construction, it drew the fire of government contractors, and the envy of impecunious political economists. Because its builders were deservedly successful, and "built better than they knew," they were assailed by reformers who knew just enough to rail about subsidies, and make a senseless noise about something that was none of their business. Because the sun in all its journeys had flattered the hilltops of but one California, and looked down upon but one Central Pacific Railroad, the road had a monopoly of actual and possible developments, and the State had a bloated monopoly in the road and the sun!

THE GOLDEN GATE THE OBJECTIVE POINT OF TRANSCONTINENTAL SYSTEMS.

How this first experimental railroad, making the best of its exceptional conditions, monopolized the commerce of a vast Indian empire on one side, and disputed the dominion of ocean and river-carriers on the other; how for long years its west-bound through traffic consisted almost entirely of light, costly, and perishable freight, which it was claimed by those who had no interest in it, should be carried without reference to value or risk; how, at from three to eight times the cost per ton-mile of ocean and river-carriage, it competed at special rates, shipper's option, with sailing vessels for the lower classes of freight; and how its self-sustaining management led to industrial and commercial development, and this to new and enlarged facilities of transportation, is a chapter of history, the truth of which Cali-

ifornia cannot afford to falsify. It ushers in the progressive, organizing, and transforming era of railroads west of the Missouri and Mississippi Rivers, in which the vigorous and predominating influence of the Central and Southern Pacific Railroads has shaped transcontinental systems with reference to the Golden Gate.

RAILROADS AS INSTRUMENTALITIES OF DEVELOPMENT.

In language which we adopt the bureaucratic statistician, Joseph Nimmo, Jr., has said: "The work of constructing transcontinental railroads and their branches, and of equipping them, and organizing their agencies and methods for active participation in the world's commerce, has been an achievement unparalleled in the history of material enterprises." Again, he says: "The construction of such lines has also proved to be an important instrumentality in the development of the resources of that vast territory situated between the Pacific Coast and Mississippi and Missouri Rivers, a region which but a few years ago was uninhabited by civilized men. The State of Colorado in all its material interests is mainly a result of this development. The States of California, Oregon, Nebraska, and Kansas, and Washington Territory, and the Territories of Utah, Montana, and Idaho, also owe their present wealth and prosperity mainly to the construction of transcontinental railroads and their branches." To the same effect the *Evening Bulletin* of March 13, 1884, in a well considered article relative to rail and water transportation, refers to the Central and Southern Pacific Railroads as follows: "These roads have not built up a freight traffic out of the ocean-carrying trade, but have largely developed a trade of their own. Some of this trade would have never gone by water because impracticable." In other words, by the exigencies of the situation, they have had to create the means for their maintenance and operation, and thus it is that the branches and feeders of the transcontinental system, even at this early stage of their progress, are found to constitute more than forty per cent of their aggregate mileage.

DEMAGOGUES WHO CAME JUST IN TIME TO BEWAIL THE RUIN OF THE COUNTRY BY ITS RAILROADS.

In all these States and Territories the normal course of events has been reversed. In the older States and the still older countries of Europe, the first railroads had a historical and industrial background of cultivated fields and populous towns and cities. But in most of the country this side of the Missouri and Mississippi Rivers, there has been a different order of events. To begin with, there were Indians and wild beasts, eking out a precarious and predatory existence, and judging from everything in sight, there was a fair prospect of empty cars both ways. Even the anti-railroad demagogues had not been developed. They were an after-birth, and came just in time to bewail the ruin of the country by its railroads. We find them so well described as first-class knaves in the recent report of the Iowa Commission, that we quote as follows: "We find three potent factors constantly at work, and, so far as they have effect, constantly tending to injuriously affect public sentiment upon this question. First in the list we place the demagogues, a class of men too indolent to study the subject, content to make an outcry, and neither provide nor seek a remedy. A quick-witted class, their only useful work seems to be to indicate the existence of an evil. As their only purpose is to ride upon the popular wave, they do not concern themselves with anything practical in the line of cures for existing

evils, but are content if they exasperate and inflame the public mind. The power of these men is fast waning. The people comprehend them much better than they suppose, and it is our belief that we are passing out of the time when they can much longer work harm." All this and more may be said of the demagogues in this State.

IN THEIR VOCABULARY SUCCESS IS THE SYNONYM OF MONOPOLY.

They decry railroads as monopolies, or anything against which there happens, or is supposed to be, an unreasoning prejudice. By a ludicrous misnomer, they characterize as a monopoly any line of business, or incorporated industry, which is licensed under general laws and open to all comers. They confound a public franchise free to all, and subject to competition by all, with a special privilege exclusive of both, and in the true sense a monopoly. They seem not to know that a special and exclusive right to supply a public want, is a monopoly, without reference to the manner of its use, and would be if exercised free of charge. They never distinguish between the business sense which foresees and supplies a public demand, and the short-sighted stupidity that waits for results, and then mouths monopoly as the synonym of success. If all the railroads in the country were reduced to streaks of rust, and all the iron horses that are speeding over them, neck and neck, were turned out to grass, the most serious loss of the demagogues would be their occupation.

THEY HUG ONLY TO MISLEAD AND DEBAUCH THE PEOPLE.

With the familiar assurance of confidence men they assume to be the loving defenders and prolocutors of the people. The people, the people! they prate, and taking their great name in vain they make it a catchword by which to deceive and mislead them. It was Judge Story, or some other good Judge, who said of them: "They know full well that without the aid of the people their schemes must prove abortive, and they therefore employ every act to undermine the public confidence and to make the people the instruments for subverting their own rights and liberties." When did they take up the great cause of the people with a true appreciation of the everlasting verities or the historical glories that are in and about it? When did their statesmanship add a single sanction to the legal and traditional safeguards of popular rights or the public welfare? As a maxim of abstract right, *salus populi suprema est lex* was always a self-evident truth. It was as true two thousand years ago on the banks of the Tiber as it is to-day on the Sacramento and the San Joaquin. From Cæsar to the citizen, from the Roman legion to the supremacy of the law, it has inspired the arguments and the rebellions by which it has triumphed, and the constitutions and codes in which it is intrenched. Having at last outlawed rebellion and legalized revolution, it has subjected both to government by and for the people, and made the constituted authority of all the shield of individual life, liberty, and property. It is thus that demagogues are at liberty to be what they are. But they have failed to dictate a single thought or action of this Commission which has not been more indifferent to their insolent demands than the people themselves.

CONCLUSION.

In the truth of facts is their only value. Without it they are not worth the paper on which they are written. For many reasons affecting this office

and its administration, we have desired to tell the truth of the whole business. Failing to get it all into one report, we intend to supply all important omissions, so that he who runs may read, and understand. And, in conclusion, it is our conviction that if this State can be ruined by its railroads, including another thousand miles of branches and feeders, it is a "consummation devoutly to be wished." We shall leave to others the honor of adopting any rule of reduction, regulation, or any policy by which it may be delayed or discouraged. And if this Commission can be prostituted to the personal or partisan purposes of anti-railroad demagogues, it can be of no further use to those who are beneficially interested in railroads and in the real welfare and prosperity of the State.

Respectfully submitted.

G. J. CARPENTER,
President Railroad Commission.

WM. P. HUMPHREYS,
Railroad Commissioner Second District.

APPENDIX.

APPENDIX.

EXHIBIT A.

MEETINGS HELD DURING YEAR 1885.

Commissioners present at said meetings. Commissioners Carpenter, Humphreys, and Foote.

January 5, Commissioners Carpenter and Humphreys.

February 17, Commissioners Carpenter and Humphreys.

February 26, Commissioners Carpenter and Humphreys.

March 2, Commissioners Carpenter and Humphreys.

April 7, Commissioners Carpenter and Humphreys.

May 29, Commissioners Carpenter and Humphreys.

June 9, Commissioners Carpenter and Humphreys.

June 13, Commissioners Carpenter and Humphreys.

July 30, Commissioners Carpenter, Humphreys, and Foote.

August 4, Commissioners Carpenter, Humphreys, and Foote.

August 5, Commissioners Carpenter, Humphreys, and Foote.

August 6, Commissioners Carpenter, Humphreys, and Foote.

September 3, Commissioners Carpenter, Humphreys, and Foote.

October 2, Commissioners Carpenter, Humphreys, and Foote.

November 5, Commissioners Carpenter, Humphreys, and Foote.

December 29, Commissioners Carpenter, Humphreys, and Foote.

EXHIBIT B.

A condensed summary of the operations of the Central Pacific Railroad and its leased lines, showing each of the past four years, is as follows:

ITEM.	1881.	1882.	1883.	1884.	Page of Report.
Total earnings	\$24,094,100 95	\$25,662,757 12	\$24,744,421 20	\$22,166,106 28	11
Income from all other sources	1,295,156 40	1,012,745 29	938,859 89	1,099,162 42	12
Total income	\$25,389,257 35	\$26,675,502 41	\$25,683,281 09	\$23,265,268 70	12
Operating expenses and taxes	\$14,579,428 42	\$17,101,766 92	\$16,672,770 37	\$17,363,704 65	16
Interest paid on debt.	3,508,291 56	3,443,413 32	3,546,591 39	3,878,487 29	17
Paid United States Sinking Fund.....	2,407,780 24	2,538,680 24	2,337,625 00	2,137,351 52	17
Total payments from income	\$20,495,500 22	\$23,083,860 48	\$22,556,986 76	\$23,379,543 46	
New construction, betterments, etc.	\$350,626 60	\$1,549,109 95	\$2,169,808 38	\$1,444,888 42	10

The total expenditures made from the income (excluding dividends paid) were as follows:

For 1881.....	\$20,495,500 22
For 1882.....	23,083,860 48
For 1883.....	22,556,986 76
For 1884.....	23,379,543 46
Total, four years	\$89,518,590 92

In addition to this sum, the company has expended for construction and betterments of its railroad, rolling stock, etc., the following amounts:

In 1881.....	\$350,626 60
In 1882.....	1,549,109 95
In 1883.....	2,169,808 38
In 1884.....	1,444,888 42
	\$5,514,433 35

This does not include expenditures for construction of lines operated but not owned by the Central Pacific Railroad Company; such items have been paid by the corporations owning the properties, and the amounts appear in the reports of the several companies interested.

The foregoing shows that during the past four years, the Central Pacific Railroad Company has expended, before the payment of any dividends, upwards of (\$95,030,323 27) ninety-five million dollars.

With the exception of the amounts paid bondholders, including the United States Government, on account of interest and principal on capital furnished in constructing the roads, much the greater portion of this sum has been expended in California. Upwards of \$30,000,000 was directly paid for labor.

The following is a summary of the result of the operation of freight and passenger trains for the past four years:

	1881.	1882.	1883.	1884.	Page of Report.
<i>Passenger Trains.</i>					
Gross earnings per train mile	\$2 87	\$2 90	\$2 86	\$2 47	17
Operating expenses per train mile	1 38	1 52	1 38	1 55	
Net earnings per train mile	\$1 49	\$1 38	\$1 48	\$0 92	
<i>Freight Trains.</i>					
Gross earnings per train mile	\$2 73	\$2 30	\$2 55	\$2 57	17
Operating expenses per train mile	1 20	1 17	1 35	1 55	
Net earnings per train mile	\$1 53	\$1 13	\$1 20	\$1 02	

The average net income per train mile from passenger trains for the years 1881, 1882, and 1883 was \$1 45; the rate for 1884 was 92 cents. If this average rate for the three former years had been maintained during 1884 the net income from passenger trains would have been \$1,791,571 more than it was for that year.

The average net income per train mile from freight trains for the years 1881, 1882, and 1883 was \$1 29, while the rate for 1884 was \$1 02. If this average rate of the three former years had been maintained during 1884 the net income from freight trains would have been \$1,470,146 more than it was for that year.

Together these reductions in the average net rate of income per train mile result in a decrease in the net income of the company for 1884, compared with the three former years, amounting to \$3,261,717.

EXHIBIT C.

CENTRAL PACIFIC RAILROAD AND LEASED LINES, YEAR 1884.

Passenger Traffic in States of California, Nevada, and Texas, and Territories of Utah, Arizona, and New Mexico.

TRAFFIC.	Passengers.	Mileage.	Earnings.	Average Miles Traveled by each Passenger.	Average Charge per Passenger per Mile in cents.
<i>Originating in California.</i>					
Terminating within the State...	8,588,051	169,599,937	\$3,528,230 01	19.7	2.08
Terminating without the State...	50,945	36,667,625	1,309,517 37	719.7	3.57
Total	8,638,996	206,267,562	\$4,837,747 38	23.9	2.35
<i>Originating in Nevada.</i>					
Terminating within the State...	21,124	930,380	\$59,933 80	44.0	6.44
Terminating without the State...	15,349	4,236,637	210,482 95	276.0	4.97
Total	36,473	5,167,017	\$270,416 75	141.7	5.23
<i>Originating in Utah.</i>					
Terminating within Territory...	3,889	182,086	\$11,625 65	46.8	6.38
Terminating without Territory...	4,007	3,073,687	149,918 50	767.1	4.88
Total	7,896	3,255,773	\$161,544 15	412.3	4.96
<i>Originating in Arizona.</i>					
Terminating within Territory...	13,066	762,687	\$75,343 90	58.4	9.88
Terminating without Territory...	7,154	3,934,034	209,613 66	549.9	5.33
Total	20,220	4,696,721	\$284,967 56	282.3	6.07
<i>Originating in New Mexico.</i>					
Terminating within Territory...	2,700	128,399	\$12,824 00	47.6	9.99
Terminating without Territory...	4,025	1,385,432	77,600 36	344.2	5.60
Total	6,725	1,513,831	\$90,424 36	225.1	5.97
<i>Originating at El Paso in Texas.</i>					
And passing westward out of State	3,106	1,935,669	\$89,476 73	623.2	4.62
Total passenger traffic originating on C. P. R. R.	8,718,416	222,836,573	\$5,784,566 93	25.6	2.58

CENTRAL PACIFIC RAILROAD AND LEASED LINES, YEAR 1884.

Passenger Traffic in States of California, Nevada, and Texas, and Territories of Utah, Arizona, and New Mexico.

WEST-BOUND THROUGH TRAFFIC.	Passengers.	Mileage.	Earnings.	Average Miles Traveled by each Passenger.	Average Charge per Passenger per Mile in cents.
<i>Originating east of Ogden.</i>					
Terminating in California	33,238	27,890,877	\$821,160 38	839.1	2.94
Terminating in Nevada	992	488,365	20,827 37	492.3	4.26
Terminating in Utah Territory	64	3,808	302 56	59.5	7.95
Total via Ogden	34,294	28,383,050	\$842,290 31	827.6	2.97
<i>Originating east of The Needles.</i>					
Terminating in California	5,912	2,576,064	\$89,863 57	435.7	3.49
<i>Originating east of Deming.</i>					
Terminating in California	9,568	10,508,747	\$276,937 96	1,098.3	2.64
Terminating in Arizona Territory	1,198	253,454	22,634 21	211.6	8.93
Terminating in New Mexico Territory	49	2,921	282 91	59.6	9.69
Total via Deming	10,815	10,765,122	\$299,855 08	995.4	2.79
<i>Originating east of El Paso.</i>					
Terminating in California	8,493	10,323,033	\$249,661 57	1,215.5	2.42
Terminating in Arizona Territory	327	97,224	7,941 98	297.3	8.17
Terminating in New Mexico Territory	596	53,044	2,891 50	89.0	4.51
	9,416	10,473,301	\$259,995 05	112.3	2.48
Total west-bound traffic terminating on C. P. R. R.	60,437	52,197,537	\$1,492,004 01	863.7	2.86
Total passenger traffic originating on C. P. R. R.	8,713,416	222,836,573	\$5,734,566 93	25.6	2.58
Total west-bound traffic terminating on C. P. R. R.	60,437	52,197,537	1,492,004 01	863.7	2.86
Total passenger traffic C. P. R. R. and leased lines, year 1884.	8,773,853	275,034,110	\$7,226,570 94	31.3	2.63

PASSENGER TRAFFIC,

State of California, Year 1884.

TRAFFIC.	Passengers.	Mileage.	Earnings.	Average Miles Traveled by each Passenger.	Average Charge per Mile per Passenger.
Originating and terminating in State	8,588,051	169,599,937	\$3,528,230 01	19.7	2.08
Originating in State and passing out	50,945	36,667,625	1,309,517 37	719.7	3.07
Originating east of terminals and passing into State	57,211	51,298,721	1,437,623 48	808.4	2.80

CENTRAL PACIFIC RAILROAD AND LEASED LINES WEST OF EL PASO.

Passenger Traffic, average Miles Traveled, and average Charge per Mile per Passenger.

YEAR.	C. P. R. R. AND LEASED LINES.		WITHIN STATE OF CALIFORNIA.	
	Average Miles Traveled by each Passenger.	Average Charge per Mile per Passenger. Cents.	Average Miles Traveled by each Passenger.	Average Charge per Mile per Passenger. Cents.
1872.....	35.33	3.83	-----	-----
1873.....	36.85	3.65	-----	-----
1874.....	34.77	3.52	-----	-----
1875.....	35.35	3.27	-----	-----
1876.....	29.90	3.24	-----	-----
1877.....	26.64	3.02	-----	-----
1878.....	25.61	2.95	-----	-----
1879.....	26.42	2.72	-----	-----
1880.....	28.53	3.04	-----	-----
1881.....	31.01	3.06	-----	2.68
1882.....	33.27	2.92	16.94	2.56
1883.....	34.08	2.73	18.63	2.29
1884.....	31.30	2.63	19.70	2.08

EXHIBIT D.

FRUIT CULTURE.

The future agricultural wealth of California will depend, in a great degree, upon its fruit and grape culture. Wheat, barley, oats, and corn will always be raised here in quantities. Fine cattle and horses, and vast numbers of sheep will be grown here also; but the peculiarities of our soil and climate make California the favored spot of the western continent for the production of fruits of almost every kind, and for the producing of wine and brandy. Fruits, such as cherries, peaches, pears, plums, and apricots, and the orange and lemon, have already filled the first place in our productive industry. That I might know the exact progress made in California during the past fifteen years, in fruit culture, the most accurate way was to find out what fruits we had shipped out of the State, and the yearly increase of such shipments. I therefore sought Mr. A. N. Towne, Manager of the Pacific railroads, who very courteously compiled for me the statistics hereafter presented, and which may be taken as correct.

I present these figures in exactly the form I obtained them.

These statistics show also the average rate of freight charged by regular freight shipments during the period named. I find the shipments of green fruit have been as follows:

FRUIT SHIPMENTS.

GREEN FRUIT.

1871.....	1,832,310 pounds.	Average rate (line) \$3 38
1872.....	2,039,972 pounds.	Average rate (line) 3 38
1873.....	2,896,530 pounds.	Average rate (line) 3 38
1874.....	5,029,840 pounds.	Average rate (line) 2 50
1875.....	2,993,720 pounds.	Average rate (line) 2 50
1876.....	4,201,730 pounds.	Average rate (line) 2 50
1877.....	3,818,310 pounds.	Average rate (line) 2 50
1878.....	2,866,420 pounds.	Average rate (line) 2 50

1879.....	3,126,400 pounds.	Average rate (line)	2 00
1880.....	3,141,500 pounds.	Average rate (line)	2 00
1881.....	7,248,300 pounds.	Average rate (line)	2 00
1882.....	7,919,340 pounds.	Average rate (line)	2 00
1883.....	19,222,580 pounds.	Average rate (line)	2 00
1884.....	11,996,070 pounds.	Average rate (line)	1 50
1885 (six months).....	23,937,630 pounds.	Average rate (line)	1 50

On the passenger train the price of freight is from three to four cents a pound.

It will thus be observed that for thirteen years there has been a yearly increase of the shipments of green fruit to an eastern market. During the past six months this increase has been remarkable—from 11,996,070 pounds in 1884, to 23,937,630 pounds for the first six months of 1885, and it is estimated it will reach 35,000,000 pounds for the year. This great increase is attributed to several causes. The eastern people are beginning to know what our fruits are, and the demand is greater. The shipments of oranges has more than quadrupled this year over any previous year; and, lastly, one of the chief reasons for this increase is cheaper transportation and better railway facilities.

TRANSPORTATION.

I may be pardoned for here saying that the interest of the carrier and the interest of the producer are, and always must be identical; that that which cripples the one will in time destroy the other. When the carrier puts the rate of transportation at a figure which enables the producer to make money, the producer puts forth his best energies and increases the production, and the carrier finds his utmost capacity strained to accommodate the increased production thus stimulated. In other words, cheap transportation inspires large production, and large production makes cheap transportation profitable. Both sides have learned a lesson. The producer has learned that he must have a market, and the carrier has learned that to make the producer send his products by his line he must so regulate his prices as to make the business profitable to the producer.

The increase in the production of canned fruits since 1871 has been equally great. Some years being less productive than others, the improvement has not been entirely uniform; yet the average increase has no parallel in any other State in the Union. The following are the statistics showing the shipments by rail. Shipments have been made by steamer and clipper ships, but the exact amount of these cannot be obtained. It may here be noted that the first six months of this year, from January first to June thirtieth, are not the months when canned fruits are shipped in quantities. From July first to January first the chief shipments will be made:

CANNED FRUITS.

1872.....	182,090 pounds.	Average charge (line)	\$3 51
1873.....	678,580 pounds.	Average charge (line)	2 00
1874.....	457,290 pounds.	Average charge (line)	1 50
1875.....	759,040 pounds.	Average charge (line)	1 50
1876.....	1,529,910 pounds.	Average charge (line)	1 50
1877.....	1,731,330 pounds.	Average charge (line)	1 50
1878.....	1,700,930 pounds.	Average charge (line)	1 50
1879.....	3,111,080 pounds.	Average charge (line)	1 50
1880.....	6,707,650 pounds.	Average charge (line)	1 50
1881.....	18,768,200 pounds.	Average charge (line)	1 50
1882.....	25,163,190 pounds.	Average charge (line)	1 50
1883.....	26,397,700 pounds.	Average charge (line)	1 25
1884.....	21,695,740 pounds.	Average charge (line)	1 25
1885 (six months).....	7,968,400 pounds.	Average rate (line)	1 18

Current rate on canned fruit to the Missouri River and points east, is \$1 25 per 100 pounds.

The following are the statistics showing the shipments of dried fruits and raisins, from 1874 to July 1, 1885.

In these lines of fruit production, the increase, so far as it is evidenced by the amount of each article which has been shipped to market by rail, during the years named, is indeed wonderful:

DRIED FRUITS.

1875.....	548,227 pounds.	Average rate (line)	\$2 50
1876.....	630,770 pounds.	Average rate (line)	2 50
1877.....	730,610 pounds.	Average rate (line)	2 50
1878.....	259,170 pounds.	Average rate (line)	2 50
1879.....	1,761,750 pounds.	Average rate (line)	2 00
1880.....	412,480 pounds.	Average rate (line)	2 00
1881.....	2,074,420 pounds.	Average rate (line)	2 00
1882.....	4,532,350 pounds.	Average rate (line)	2 00
1883.....	3,097,950 pounds.	Average rate (line)	2 00
1884.....	2,103,350 pounds.	Average rate (line)	1 50
1885 (six months).....	658,630 pounds.	Average rate (line)	1 69

RAISINS.

1874.....	220 pounds.	Average rate (line)	\$2 81
1875.....		Average rate (line)	1 75
1876.....	68,440 pounds.	Average rate (line)	1 75
1877.....	239,260 pounds.	Average rate (line)	1 75
1878.....	192,860 pounds.	Average rate (line)	1 75
1879.....	942,770 pounds.	Average rate (line)	1 50
1880.....	669,660 pounds.	Average rate (line)	1 50
1881.....	1,490,320 pounds.	Average rate (line)	1 50
1882.....	868,770 pounds.	Average rate (line)	1 50
1883 (a bad year).....	295,050 pounds.	Average rate (line)	1 50
1884.....	3,150,290 pounds.	Average rate (line)	1 50
1885 (six months).....	788,210 pounds.	Average rate (line)	1 23

In 1885, to the Missouri River and points west of Chicago.

Current rates on raisins to Chicago and points east thereof, is \$1 50 per 100 pounds.

I am informed from the most authentic sources, and especially from W. T. Coleman & Co., one of the leading raisin shipping houses on this coast, that the total raisin production for this State in 1884 was 175,000 twenty-pound boxes; that for this year the yield will exceed 250,000, and that next year the estimated crop is over 400,000. Taking into consideration the vines already planted, within five years California will produce 1,500,000 boxes of raisins, worth from \$3,000,000 to \$4,000,000.

There are at present imported into the United States annually about 5,000,000 boxes of raisins. When we recollect that the raisins of the world are produced only in a small portion of Spain and in California, while the whole civilized world consumes them, we can then well understand the great value to California of this new industry.

Doubtless the most remarkable increase of shipments of the products of our farmers is the garden vegetables, such as cabbages, green peas, green corn, egg plant, asparagus, lettuce, tomatoes, and the like. Indeed, most farmers are not aware of these shipments at all. All these vegetables come into market in California at least two months earlier than at any point east of the Rocky Mountains, and therefore find a ready market and quick sales at fair prices. These shipments are made to Denver, Omaha, Kansas City, and to north and middle Texas. The following shows the exact amount of shipments by rail of garden vegetables, since 1874.

It will be noticed that our principal shipments of these products have been during the past two and one half years:

VEGETABLES.

1874.....	261,310 pounds.	Average rate (line)	\$3 00
1875.....		Average rate (line)	2 50
1876.....	8,000 pounds.	Average rate (line)	2 50
1877.....	230,110 pounds.	Average rate (line)	2 50
1878.....	20,000 pounds.	Average rate (line)	2 00
1879.....		Average rate (line)	2 00
1880.....	41,100 pounds.	Average rate (line)	2 00
1881.....	115,540 pounds.	Average rate (line)	2 00
1882.....	526,870 pounds.	Average rate (line)	1 50
1883.....	5,147,310 pounds.	Average rate (line)	1 50
1884.....	5,509,880 pounds.	Average rate (line)	1 50
1885 (six months).....	7,410,310 pounds.	Average rate (line)	1 22

But not less conspicuous among our productive industries is the grape growing. It is estimated that there are now 150,000 acres of land planted to grapes in this State. Most of them are not yet in full bearing. When in full bearing, putting the average crop at but three tons to the acre, yet within the next five years we will produce not less than 65,000,000 gallons of wine. Hitherto a very large portion of our wines and brandy have been shipped to market by sea. The amount thus shipped cannot be accurately obtained.

The following shows the amounts of wine and brandy shipped east by rail, and also the price of freight:

BRANDY.

1874.....	38,390 pounds.	Average rate (line)	\$4 20
1875.....	393,750 pounds.	Average rate (line)	4 20
1876.....	232,060 pounds.	Average rate (line)	4 20
1877.....	735,220 pounds.	Average rate (line)	4 20
1878.....	484,930 pounds.	Average rate (line)	4 20
1879.....	683,880 pounds.	Average rate (line)	4 20
1880.....	926,140 pounds.	Average rate (line)	2 50
1881.....	1,456,520 pounds.	Average rate (line)	1 75
1882.....	1,707,480 pounds.	Average rate (line)	1 75
1883.....	1,847,790 pounds.	Average rate (line)	1 75
1884.....	2,021,300 pounds.	Average rate (line)	1 75
1885 (nine months).....	1,268,900 pounds.	Average rate (line)	1 27

To Chicago and points west.

The current rate of brandy to New York is \$1 50 on each 100 pounds.

WINE.

1871.....	2,307,690 pounds.	Average rate (line)	\$3 78
1872.....	2,635,700 pounds.	Average rate (line)	3 78
1873.....	3,837,240 pounds.	Average rate (line)	3 78
1874.....	4,627,166 pounds.	Average rate (line)	2 00
1875.....	4,867,190 pounds.	Average rate (line)	2 00
1876.....	5,524,770 pounds.	Average rate (line)	2 00
1877.....	5,178,850 pounds.	Average rate (line)	2 00
1878.....	5,560,290 pounds.	Average rate (line)	2 00
1879.....	7,568,500 pounds.	Average rate (line)	2 00
1880.....	9,320,700 pounds.	Average rate (line)	1 50
1881.....	13,179,870 pounds.	Average rate (line)	1 50
1882.....	14,477,120 pounds.	Average rate (line)	1 50
1883.....	18,853,940 pounds.	Average rate (line)	1 50
1884.....	23,080,530 pounds.	Average rate (line)	1 50
1885 (six months).....	14,277,130 pounds.	Average rate (line)	1 23

Current rate on wine to New York and other eastern points is \$1 50 per 100 pounds. Every year in the future our wines will improve in quality, because our varieties of grapes are better. Good wine cannot be made from inferior grapes, nor can the same character of wine be made in all parts of the State. The Bordeaux variety of grapes must be planted near the coast. The grapes grown in the south of France and in Spain should be planted

in the interior where the heat is great, and where heavy wines are best produced. The best experience of centuries of grape culture in other countries show us what it is best to do in this country. Climatic influence has a very marked effect on the character of wine produced.

EXHIBIT E.

On the first day of January, 1885, the Southern Pacific, in concert with other companies interested in attracting and encouraging European immigration to this State, established the very low rate of thirty dollars per emigrant passenger from the Missouri River to this coast. For a clear statement and conception of the proportions and rate per mile received by the Southern Pacific Company, west of and via its various eastern terminals, from the rates charged before and after said date, we append the table following:

KANSAS CITY TO SAN FRANCISCO.

VIA AND WEST OF.	PRIOR TO JANUARY, 1885.		SUBSEQUENT TO JANUARY, 1885.	
	Southern Pacific Proportion.	Cents Per Mile.	Southern Pacific Proportion.	Cents Per Mile.
Ogden	\$19 09	2.16	\$13 57	1.54
Mojave	8 13	2.13	5 82	1.52
Deming	21 80	1.82	15 30	1.28
El Paso	22 49	1.75	15 78	1.23

Sportsman's round trip excursion tickets, good from a Friday or Saturday until the next Tuesday, were established during the past season, and continued until the thirty-first day of October, 1885, as follows:

From San Francisco to Truckee or intermediates and return	\$10 00
From Oakland to Truckee or intermediates and return	10 00
From San José to Truckee or intermediates and return	10 00
From Stockton to Truckee or intermediates and return	10 00
From Benicia to Truckee or intermediates and return	10 00
From Vallejo Junction to Truckee or intermediates and return	10 00
From Sacramento to Truckee or intermediates and return	7 00
From Marysville to Truckee or intermediates and return	8 00

Since January, 1884, the through rates to Portland, Oregon, have been reduced as follows:

FROM.	CLASS.	FORMER.		PRESENT.	
		Through Rate.	Southern Pacific Proportion.	Through Rate.	Southern Pacific Proportion.
San Francisco	Unlimited	\$41 65	\$9 05	\$36 00	\$11 00
San Francisco	Limited	38 05	9 05	32 00	10 00
Stockton	Unlimited	40 70	8 10	36 00	10 90
Stockton	Limited .....	.....	.....	31 90	9 90
Sacramento	Unlimited	38 90	6 30	34 00	8 50
Sacramento	Limited .....	.....	.....	30 00	8 00
Marysville	Unlimited	37 80	4 70	32 70	7 05
Marysville	Limited .....	.....	.....	30 00	7 05

During the period mentioned, track and train service were extended to Delta, and the increase in Southern Pacific proportion is due to that fact. It will also be perceived that lower rate limited tickets were put on sale at Stockton, Sacramento, and Marysville.

Special round-trip tickets for the accommodation of tourists and sportsmen, which are placed on sale during the Summer season, to such points as Strawberry Valley, Sissons, etc., have also been considerably reduced, as below indicated:

FROM.	TO AND RETURN.	FORMER.		PRESENT.	
		Rate.	Southern Pacific Proportion.	Rate.	Southern Pacific Proportion.
San Francisco.....	Castle Rock and return ...	\$31 10	\$18 10	\$27 25	\$21 00
Stockton	Castle Rock and return ...	29 20	16 20	27 25	21 00
Sacramento	Castle Rock and return ...	25 60	12 60	23 55	17 30
Marysville	Castle Rock and return ...	22 40	9 40	20 35	14 10
San Francisco.....	Lower Soda Springs	30 90	18 10	27 00	21 00
Stockton	Lower Soda Springs	29 00	16 20	27 00	21 00
Sacramento	Lower Soda Springs	25 40	12 60	23 30	17 30
Marysville	Lower Soda Springs	22 20	9 40	20 10	14 00
San Francisco.....	Sothorns	28 90	18 10	24 50	21 00
Stockton	Sothorns	27 00	16 20	24 50	21 00
Sacramento	Sothorns	23 40	12 60	20 80	17 30
Marysville	Sothorns	20 20	9 40	17 60	14 10
San Francisco.....	Strawberry Valley	33 50	18 10	30 00	21 00
Stockton	Strawberry Valley	31 60	16 20	30 00	21 00
Sacramento	Strawberry Valley	28 00	12 60	26 30	17 30
Marysville	Strawberry Valley	24 80	9 40	23 10	14 10
San Francisco.....	Upper Soda Springs.....	31 90	18 10	28 25	21 00
Stockton	Upper Soda Springs.....	30 00	16 20	28 25	21 00
Sacramento	Upper Soda Springs.....	26 40	12 60	24 55	17 30
Marysville	Upper Soda Springs.....	23 20	9 40	21 35	14 10

The increase in Southern Pacific Company's proportion is due to the same reason that influenced the Portland Divisions, namely: increased rail mileage north of Redding.

Within the same time, third class, or emigrant rates, from California points to Missouri River points, such as Omaha, Kansas City, Leavenworth, Atchison, St. Joseph, Pacific Junction, etc., have been reduced from \$50 to \$47 50. To show how such reduction affected the business of the Southern Pacific Company, we give below, for information, the proportions accruing on the two rates west of its eastern terminals, via the various routes, taking Kansas City as an example:

SAN FRANCISCO TO KANSAS CITY.

VIA.	On \$50.	Cents Per Mile.	On \$47 50.	Cents Per Mile.
Ogden (Southern Pacific Company).....	\$23 00	2.50	\$21 85	2.47
Mojave (Southern Pacific Company).....	9 44	2.47	8 98	2.35
Deming (Southern Pacific Company).....	25 50	2.13	24 23	2.02
El Paso (Southern Pacific Company).....	26 30	2.05	24 99	1.94

Round trip tourists tickets for Lake Tahoe and return, via Truckee and stage, have been issued at the following stations and rates:

From.	To.	At.	Southern Pacific Proportion.
San José.....	Lake Tahoe and return.....	\$20 00	\$17 00
Stockton.....	Lake Tahoe and return.....	19 00	16 00
Marysville.....	Lake Tahoe and return.....	17 00	14 00
Oakland.....	Lake Tahoe and return.....	20 00	17 00

These tickets are of course on sale during the open season when there is a demand for them.

Thirty-day excursion round trip tickets from Los Angeles to Lang and return, and vice versa, are at the rate of \$3 75.

During the past season round trip excursion rates and divisions by rail and stage to Summit Soda Springs and back, were as follows:

SUMMIT SODA SPRINGS.

From.	At.	Southern Pacific Proportion.
San Francisco.....	\$16 00	\$13 00
Oakland.....	16 00	13 00
San José.....	16 00	13 00
Stockton.....	15 00	12 00
Sacramento.....	13 00	10 00

Since January, 1884, rates to certain points in this State reached via Reno, Nevada, have been reduced, as noted below:

From.	To.	Reduced From.		Cents Per Mile.	Reduced To.		Cents Per Mile.
		Rate.	Southern Pacific Proportion.		Rate.	Southern Pacific Proportion.	
San Francisco..	Beckworth.....	\$15 50	\$11 00	4.49	\$15 00	\$10 00	4.08
San Francisco..	Genesee.....	18 00	11 00	4.49	17 00	10 00	4.08
San Francisco..	Greenville.....	20 00	11 00	4.49	19 00	10 00	4.08
San Francisco..	Janesville.....	19 00	11 00	4.49	18 00	10 00	4.08
San Francisco..	Milford.....	18 00	11 00	4.49	17 00	10 00	4.08
San Francisco..	Mohawk.....	17 50	11 00	4.49	16 00	10 00	4.08
San Francisco..	Plumas, Eureka Mills.	18 00	11 00	4.49	17 00	10 00	4.08
San Francisco..	Quincy.....	19 00	11 00	4.49	18 00	10 00	4.08
San Francisco..	Susanville.....	20 00	11 00	4.49	19 00	10 00	4.08
San Francisco..	Taylorville.....	19 00	11 00	4.49	18 00	10 00	4.08

The last reductions of through and local lower grade rates on the Southern Pacific system took effect on the thirteenth day of October, 1885, at which time the company commenced carrying emigrants on its express trains, and also reduced second class passenger rates from San Francisco to Los Angeles from \$18 to \$15.

EXHIBIT F.

COMPARISON OF WHEAT RATES,

As charged by Chicago, Milwaukee, and St. Paul Railway and Central Pacific Railroad.

Distance Miles	To MILWAUKEE, FROM.	Rate per Ton	Distance Miles	To PORT COSTA, FROM.	Rate per Ton
9.0	Elm Grove	\$1 20	6.77	Goodyears	\$0 75
13.0	Brookfield	1 20	11.95	Teal	80
19.0	Pewaukee	1 40	17.26	Suisun	90
24.0	Startland	1 50	24.11	Cannons	1 30
26.0	Nashota	1 60	28.08	Elmira	1 40
31.0	Oconomowac	1 80	32.91	Baravia	1 50
37.0	Iconia	2 00	36.28	Dixon	1 50
44.0	Watertown	2 20	44.57	Davis	1 60
50.0	Richwood	2 20			
54.0	Reeseville	2 40	53.71	Woodland	1 75
63.0	Columbus	2 60	64.50	Blacks	1 75
67.0	Fall River	2 70			
73.0	Doyleston	2 80	72.02	Dunnigans	1 80
78.0	Ria	2 90	77.06	Harrington	1 80
83.0	Wynona	3 00	82.23	Arbuckle	1 80
90.0	Portage	3 20	92.95	Williams	1 95
100.0	Lewiston	3 30	101.80	Maxwell	2 20
108.0	Killowna City	3 40	107.04	Delavan	2 20
117.0	Lyndon	3 40	118.63	Willows	2 50
120.0	Lemon Weir	3 60	125.57	Germantown	2 80
127.0	Manston	3 60	130.70	Greenwood	2 90
135.0	Lisbon	3 80	134.16	Orland	3 00
139.0	Orange	3 80	137.77	Malton	3 10
140.0	Camp Douglas	3 80	142.11	Kirkwood	3 20
153.0	Tomah	4 00	147.29	Corning	3 30
157.0	Tunnell City	4 20	152.64	Finnell	3 45
147.0	Oakdale	4 00	155.12	Tehama	3 50
	Average rate per ton per mile	.0342		Average rate per ton per mile	.0251
	36 1/2 per cent greater than Central Pacific average.				

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COMPARISON OF WHEAT RATES,

As charged by Chicago and Northwestern Railway and Central Pacific Railroad.

Distance, Miles.	TO CHICAGO, FROM.	Rate per Ton	Distance, Miles.	TO PORT COSTA, FROM.	Rate per Ton
6.7	Austin	\$1 10	6.77	Goodyears	\$0 75
8.6	Oak Park	1 10			
10.4	Maywood	1 10	11.95	Teal	80
15.8	Elmhurst	1 27	17.26	Suisun	90
20.0	Lombard	1 27			
22.5	Prospect Place	1 34			
24.9	Wheaton	1 34	24.11	Cannons	1 30
27.5	Winfield	1 40	28.08	Elmira	1 40
30.0	Twiner Junction	1 40	32.91	Batavia	1 50
35.5	Geneva	1 54	36.26	Dixon	1 50
37.9	St. Charles	1 54			
38.7	Batavia	1 54			
40.6	La Fox	1 60	40.53	Tremont	1 60
44.0	Blackberry	1 60	44.32	Davis	1 60
50.6	Maple Park	1 74	49.37	Merritt	1 70
55.4	Cortland	1 74	53.71	Woodland	1 75
58.3	DeKalb	1 80	58.62	Yolo	1 75
64.3	Malta	1 87	64.50	Blacks	1 75
69.7	Preston	1 94	72.02	Dunnigans	1 80
74.8	Rochelle	2 00	77.06	Harrington	1 80
79.0	Flagg	2 04			
83.7	Askton	2 08	82.23	Arbuckle	1 80
88.0	Franklin Grove	2 12	87.22	Macy	1 90
92.9	Nachusa	2 16	92.95	Williams	1 95
97.9	Dixon	2 20	101.80	Maxwell	2 20
104.3	Nelson	2 23	107.04	Delavan	2 20
109.5	Sterling	2 27	110.70	Noonan	2 30
112.9	Galt	2 30	113.60	Logandale	2 40
114.8	Rock Island Junction	2 30			
118.6	Round Grove	2 33	118.63	Willows	2 50
	Average rate per ton per mile .....	.03		Average rate per ton per mile .....	.0273
	9.89 per cent greater than Central Pacific average				

MEMORANDUM OF COMPARATIVE GRAIN RATES,

Contained in Statement of November 20, 1884.

	Central Pacific Railroad Tariff, Jan- uary 1, 1884.	Proposed Commis- sioners.	Kansas Commis- sioners.	Atchison, Topeka, and Santa Fe.	Union Pacific Railway.	Chicago, Milwaukee, and St. Paul.
To San Francisco (average per mile).....	.01888	.01744	.02184	.02249	.02357	.02260
To Port Costa (average per mile).....	.02109	.01875	.02415	.02413	.02755	.02470
To Stockton (average per mile).....	.03530	.02908	.04101	.03747	.05555	.0402

Previous Statement of June 26, 1883.

Central Pacific Railroad.....	.01666
Texas and Pacific.....	.02503
Missouri Pacific.....	.02373
Chicago and Northwestern.....	.02448
St. Louis and San Francisco.....	.01801

Comparative Cattle Rates.

Central Pacific Railroad.....	.02069
Proposed rate.....	.02121
Kansas Commissioners.....	.01908
Union Pacific Railway.....	.02749

COMPARATIVE WOOL STATEMENT.

Showing Southern Pacific Company's Current Rates, less Account L, compared with California and Kansas Commissioners' Rates.

TO SAN FRANCISCO.

FROM.	Miles.	Southern Pacific Company's Cur- rent Rates. Per 100.	California Com- missioners' Pro- posed. Per 100.	Kansas Commis- sioners' Current. Per 100.
Stock Yards.....	9	\$0.063	.....	\$0.12
San Pablo.....	18	.11	.....	.18
Pinole.....	24	.11	.....	.20
Port Costa.....	32	.11	.....	.24
Martinez.....	36	.11	.....	.26
Avon.....	39	.15	.....	.26
Bay Point.....	42	.17	.....	.27
Cornwall.....	50	.18	.....	.28
Antioch.....	55	.18	.....	.30
Brentwood.....	63	.18	.....	.33
Byron.....	68	.18	.....	.34
Bethany.....	77	.18	.....	.37
Melrose.....	12	.09	.....	.15
Haywards.....	21	.12	.....	.20
Niles.....	30	.15	.....	.22
Irvington.....	34	.15	.....	.26
San José.....	48	.20	.....	.28
Pleasanton.....	42	.18	.....	.27
Livermore.....	48	.18	.....	.28
Tracy.....	83	.18	.....	.39
Lathrop.....	94	.18	.....	.41
Stockton.....	103	.24	.....	.43
Lodi.....	116	.25	.....	.46
Galt.....	124	.27	.....	.47
Ione.....	151	.45	.....	.53
Elk Grove.....	135	.27	.....	.49
Sacramento.....	151	.36	.....	.53
Roseville Junction.....	169	.39	.....	.56
Lincoln.....	180	.39	.....	.58
Wheatland.....	191	.39	.....	.61

COMPARATIVE WOOL STATEMENT—CONTINUED.

To SAN FRANCISCO.

From.	Miles.	Southern Pacific Company's Cur- rent Rates. Per 100.	California Com- missioners' Pro- posed. Per 100.	Kansas Commis- sioners' Current. Per 100.
Marysville	204	\$0.39	-----	\$0.64
Durham	241	.52 $\frac{1}{2}$	-----	.72
Chico	247	.52 $\frac{1}{2}$	-----	.72
Tehama	274	.79 $\frac{1}{2}$	-----	.78
Red Bluff	286	.87 $\frac{3}{4}$	-----	.80
Cottonwood	303	1.02	-----	.84
Anderson	310	1.08	-----	.84
Redding	321	1.14	-----	.88
Modesto	114	.30 $\frac{1}{2}$	-----	.45
Turlock	127	.36 $\frac{1}{2}$	-----	.48
Merced	152	.48 $\frac{1}{2}$	-----	.53
Madera	185	.55 $\frac{1}{2}$	-----	.59
Fresno	207	.57 $\frac{1}{2}$	-----	.64
Kingsburg	227	.59 $\frac{1}{2}$	-----	.68
Goshen	241	.60	-----	.72
Tulare	251	.60	-----	.74
Delano	282	.60	-----	.80
Sumner	314	.60	-----	.86
Suisun	50	.13 $\frac{1}{2}$	-----	.28
Elmira	60	.21 $\frac{1}{2}$	-----	.32
Dixon	69	.27 $\frac{1}{2}$	-----	.34
Davis	77	.32 $\frac{1}{2}$	-----	.37
Woodland	86	.32 $\frac{1}{2}$	-----	.40
Knights	95	.37 $\frac{1}{2}$	-----	.41
Williams	125	.32 $\frac{1}{2}$	-----	.47
Willows	151	.35	-----	.53
Greenwood	163	.44	-----	.55
Corning	180	.50	-----	.58
Napa Junction	38	.13 $\frac{1}{2}$	-----	.26
Napa	46	.13 $\frac{1}{2}$	-----	.28
Yountville	55	.15 $\frac{1}{2}$	-----	.30
St. Helena	64	.22 $\frac{1}{2}$	-----	.33
Calistoga	73	.28 $\frac{1}{2}$	-----	.35
Average rate per ton per mile .....		.05.63	-----	.07.31

COMPARATIVE GRAIN STATEMENT ON CENTRAL PACIFIC RAILROAD TONNAGE IN 1883, USING COMMISSIONERS' RATES IN EFFECT JANUARY 1, 1884.

November 20, 1884.

TO SAN FRANCISCO.

From.	Miles.	Weight.	CENTRAL PACIFIC RAILROAD.		CALIFORNIA COMMISSIONERS—PROPOSED.		KANSAS COMMISSIONERS.		ATCHISON, TOPEKA, AND SANTA FE.		Union Pacific Railway Rate.	Chicago, Milwaukee, and St. Paul. Rate.
			Rate.	Charges.	Rate.	Charges.	Rate.	Charges.	Rate.	Charges.		
Cannons	56	98,520	\$1 80	\$88 67	\$1 70	\$83 74	\$2 40	\$118 22	\$1 80	\$88 67	\$3 20	\$2 40
Elmira	60	3,762,280	1 90	3,574 17	1 70	3,197 94	2 40	4,514 74	2 00	3,762 28	3 20	2 40
Batavia	65	324,800	2 00	324 80	1 80	292 02	2 40	389 76	2 00	324 80	3 20	2 60
Dixon	69	1,116,440	2 00	1,116 44	1 90	1,060 62	2 50	1,395 55	2 40	1,359 73	3 20	2 70
Tremont	73	981,770	2 10	1,030 86	2 00	981 77	2 60	1,276 30	2 60	1,276 30	3 20	2 80
Davis	77	58,980	2 10	61 94	2 05	60 46	2 60	76 69	2 80	82 59	3 20	2 90
Trubody	78	42,550	1 70	36 17	1 60	34 04	2 60	55 32	2 80	59 58	3 20	2 90
Yountville	81	138,900	1 75	121 54	1 60	111 92	2 70	187 52	2 80	194 46	3 20	2 90
Calistoga	98	22,850	2 30	26 28	2 00	22 85	3 00	34 28	3 20	36 56	3 40	3 20
Merritts	82	37,550	2 20	41 30	2 10	39 53	2 70	50 69	2 80	52 57	3 20	3 00
Blacks	97	363,910	2 25	409 40	2 25	409 40	3 00	555 87	3 20	582 26	3 40	3 20
Dunnigan	104	305,280	2 80	351 07	2 30	351 07	3 00	457 92	3 20	488 45	3 60	3 20
Norman	143	70,070	2 80	98 10	2 78	97 40	3 60	126 13	3 80	133 13	3 80	3 80
Willows	151	566,720	3 00	850 08	2 92	827 41	3 60	920 10	3 80	1,076 77	3 90	4 00
Orland	166	557,050	3 50	974 84	3 13	871 78	3 70	1,030 54	3 80	1,068 39	4 00	4 00
Corning	180	49,160	3 80	98 40	3 27	80 38	3 80	93 40	4 00	98 32	4 00	4 00
Lincoln	180	20,880	2 70	28 12	2 45	25 52	3 80	39 58	4 00	41 66	4 00	4 00
Marysville	204	73,100	2 90	106 00	2 78	101 61	4 10	149 85	4 20	153 51	4 10	4 00
Live Oak	214	67,820	3 00	101 73	2 92	99 02	4 20	142 42	4 40	149 20	4 10	4 20
Gridley	221	242,700	3 20	368 32	2 99	362 84	4 20	509 67	4 40	533 94	4 10	4 20
Durham	241	452,540	3 65	789 39	3 27	707 21	4 40	951 59	4 60	984 84	4 40	4 20
Chicago	247	1,454,940	3 70	2,691 64	3 41	2,480 67	4 40	3,290 87	4 60	3,346 34	4 40	4 20
Nord	254	144,250	3 75	270 47	3 48	251 00	4 40	317 35	4 60	321 78	4 60	4 40
Cuna	259	261,120	3 85	502 66	3 58	487 40	4 40	574 46	4 60	600 58	4 80	4 40
Out Creek	279	47,500	4 00	85 00	3 48	82 65	4 60	109 25	4 60	109 25	4 80	4 80
Red Bluff	286	442,760	4 04	894 38	3 58	792 54	4 70	1,040 49	4 60	1,018 35	4 80	5 00
Modesto	114	169,820	2 50	212 27	2 40	203 78	3 20	271 71	3 40	288 69	3 60	3 40

Ceres.....	119	48,550	2 60	63 11	2 45	59 47	3 30	80 11	3 40	82 54	3 60	3 40
Turlock.....	127	773,390	2 75	1,053 41	2 57	993 81	3 40	1,314 76	3 40	1,314 76	3 60	3 60
Delhi.....	133	164,710	2 80	290 59	2 64	217 42	3 50	288 24	3 60	293 48	3 80	3 80
Livingston.....	137	274,280	2 80	384 00	2 71	371 65	3 50	479 99	3 60	498 70	3 80	3 80
Arena.....	140	127,010	2 85	180 99	2 71	172 10	3 50	222 27	3 80	241 32	3 80	3 80
Atwater.....	144	119,940	2 95	176 91	2 78	166 72	3 60	215 89	3 80	227 89	3 80	4 00
Merced.....	152	2,094,800	3 10	3,200 44	2 92	3,014 61	3 60	3,716 64	3 80	3,923 12	3 90	4 00
Borden.....	188	382,360	3 90	648 10	3 41	566 67	3 90	648 10	4 00	664 72	4 00	4 00
Fresno.....	207	1,252,540	4 10	2,567 71	3 71	2,323 46	4 10	2,567 71	4 40	2,755 59	4 10	4 00
Selma.....	222	208,030	4 35	452 53	3 95	410 92	4 20	436 93	4 40	457 73	4 10	4 20
Kingsburg.....	227	337,930	4 35	735 06	3 95	667 47	4 20	709 72	4 40	748 51	4 20	4 20
Cross Creek.....	235	136,790	4 40	300 94	4 05	277 00	4 30	294 10	4 60	312 62	4 20	4 20
Hanford.....	254	1,563,180	4 90	3,929 79	4 25	3,321 76	4 40	3,438 99	4 60	3,595 31	4 60	4 40
Lemoore.....	262	584,770	4 35	1,432 69	4 35	1,271 87	4 50	1,315 73	4 60	1,344 97	4 80	4 40
Tulare.....	261	304,440	4 60	700 21	4 25	646 94	4 40	639 77	4 60	700 21	4 60	4 40
Tipton.....	262	205,060	4 65	476 84	4 35	446 07	4 50	461 45	4 60	471 71	4 80	4 40
Average rate per ton per mile.....			.01,838	\$31,722 36	.01,744	\$29,024 81	.02,184	\$35,450 67	.02,249	\$35,849 18	.02,357	.02,260

COMPARATIVE GRAIN STATEMENT—CONTINUED.

November 20, 1884.

To Port Costa.

From.	Miles.	Weight.	CENTRAL PACIFIC RAILROAD.		CALIFORNIA COMMISSIONERS—PROPOSED.		KANSAS COMMISSIONERS.		ATCHISON, TOPEKA, AND SANTA FE.		Union Pacific Railway.	Chicago, Milwaukee, and St. Paul.
			Rate.	Charges.	Rate.	Charges.	Rate.	Charges.	Rate.	Charges.		
Goodyears.....	7	29,820	\$0 75	\$11 18	\$0 70	\$10 44	\$1 00	\$14 91	\$1 00	\$14 91	\$1 60	\$1 00
Suisun.....	17	1,626,570	90	731 96	90	731 96	1 40	1,138 60	1 20	975 94	1 60	1 40
Creston.....	28	219,600	1 25	137 25	90	98 82	1 60	175 68	1 40	135 72	2 60	1 60
Cordelia.....	24	874,080	1 20	524 45	90	383 34	1 60	699 27	1 40	611 86	2 40	1 50
Cannons.....	24	1,146,880	1 30	745 47	1 00	573 44	1 60	917 60	1 40	802 82	2 40	1 50
Elmira.....	28	81,330,340	1 40	42,931 24	1 10	33,731 69	1 60	49,064 27	1 40	42,931 24	2 60	1 60
Dixon.....	36	21,180,730	1 50	15,885 55	1 30	13,767 47	2 00	21,180 73	1 60	16,944 58	3 20	1 60
Batavia.....	33	13,093,800	1 50	9,820 35	1 20	7,856 28	1 80	11,784 42	1 60	10,475 04	3 20	1 60
Tremont.....	41	11,398,200	1 60	9,110 56	1 40	7,971 74	2 10	11,957 61	1 60	9,110 56	3 20	2 00
Davis.....	44	6,864,400	1 60	5,491 52	1 40	4,805 08	2 10	7,207 62	1 60	5,491 52	3 20	2 20
Merritts.....	49	11,525,400	1 70	9,796 59	1 50	8,644 05	2 20	12,677 94	1 60	9,220 32	3 20	2 20
Woodland.....	54	10,355,070	1 75	9,060 69	1 60	8,284 06	2 30	11,908 33	1 80	9,319 56	3 20	2 40
Curtis.....	59	936,870	1 75	819 76	1 70	796 34	2 40	1,124 24	2 00	936 87	3 20	2 40
Yolo.....	59	2,195,000	1 75	1,920 63	1 70	1,865 75	2 40	2,634 00	2 00	2,195 00	3 20	2 40
Willows.....	119	15,292,520	2 50	19,115 65	2 45	18,733 34	3 30	25,232 66	3 40	25,967 28	3 60	3 40
Lynan.....	122	186,860	2 65	247 59	2 50	233 58	3 40	317 66	3 40	317 66	3 60	3 40
Germanatown.....	123	16,265,270	2 80	22,771 38	2 57	20,900 87	3 40	27,650 96	3 40	27,650 96	3 60	3 60
Greenwood.....	131	1,547,490	3 00	2,321 24	2 64	2,042 69	3 50	2,708 11	3 60	2,785 48	3 60	3 60
Orland.....	134	6,356,300	3 00	9,534 45	2 64	8,390 32	3 50	11,123 53	3 60	11,441 34	3 80	3 80
Malton.....	138	1,519,950	3 20	2,431 92	2 71	2,059 53	3 50	2,659 91	3 60	2,735 91	3 80	3 80
Kirkwood.....	142	543,280	3 30	869 25	2 78	755 16	3 60	977 90	3 80	1,032 23	3 80	3 80
Corning.....	147	12,283,010	3 30	20,296 97	2 85	17,503 29	3 60	23,109 42	3 80	23,337 71	3 90	4 00
Richfield.....	151	1,744,800	3 50	3,053 56	2 92	2,547 54	3 60	3,140 80	3 80	3,315 29	3 90	4 00
Finnell.....	153	390,530	3 50	683 43	2 92	520 17	3 60	702 95	3 80	742 01	3 90	4 00
Tehama.....	242	7,405,730	3 50	12,990 03	2 99	11,071 57	4 40	16,292 61	4 60	17,033 18	4 40	4 20
Oat Creek.....	247	925,630	3 50	1,619 85	2 99	1,383 82	4 40	2,036 36	4 60	2,128 36	4 40	4 20
Rawsons.....	249	1,471,670	3 50	2,575 42	3 06	2,251 66	4 40	3,237 67	4 60	3,384 84	4 40	4 20
Red Bluff.....	254	5,270,190	3 50	9,222 83	3 13	8,247 85	4 40	11,594 42	4 60	12,121 14	4 80	4 40
Cottonwood.....	271	64,790	3 75	1,221 48	3 34	108 20	4 60	149 02	4 60	149 02	4 80	4 40
Cicero.....	101	735,560	2 75	1,038 92	2 30	868 92	3 00	1,133 37	3 20	1,208 93	3 50	3 20
Clay.....	102	318,430	2 75	437 84	2 30	366 19	3 00	477 64	3 20	509 49	3 50	3 20

Ione.....	119	727,210	2 75	989 91	2 45	890 83	3 30	1,199 90	3 40	1,236 26	3 60	3 40
Atwater.....	112	8,938,200	2 45	10,949 30	2 40	10,725 84	3 20	14,301 12	3 40	15,194 94	3 60	3 40
Merced.....	119	24,220,990	2 60	31,437 21	2 45	29,670 64	3 30	39,934 53	3 40	41,175 58	3 60	3 40
Athlone.....	129	8,663,390	2 85	12,815 58	2 57	11,556 51	3 40	15,288 76	3 40	15,288 76	3 80	3 60
Madera.....	153	26,710	3 30	34 17	2 92	30 23	3 60	37 28	3 80	39 35	4 00	4 00
Fresno.....	174	3,963,110	3 60	7,133 60	3 20	6,340 83	3 80	7,529 91	3 80	7,529 91	3 80	4 00
Fowler.....	184	26,520	3 75	49 73	3 34	44 29	3 80	50 39	4 00	53 04	4 00	4 00
Selma.....	189	512,940	3 85	987 41	3 41	874 55	3 80	1,000 23	4 00	1,023 88	4 00	4 00
Kingsburg.....	194	1,386,170	3 85	2,685 70	3 48	2,427 60	3 90	2,730 58	4 20	2,923 86	4 00	4 00
Hanford.....	222	8,020,930	4 40	17,646 05	3 95	15,841 34	4 20	16,843 95	4 40	17,646 05	4 20	4 20
Lemoore.....	230	5,507,010	4 40	12,115 42	3 95	10,878 31	4 20	11,564 72	4 40	12,115 42	4 20	4 20
Tulare.....	219	764,740	4 10	1,567 72	3 84	1,468 30	4 20	1,605 95	4 40	1,682 43	4 20	4 20
Tipton.....	229	120,740	4 15	250 54	3 95	238 46	4 20	253 55	4 40	265 63	4 20	4 20
Tehachapi.....	329	58,720	5 25	154 14	4 95	145 33	5 00	146 80	5 00	146 80	6 00	5 00
Average rate per ton per mile.....			.02,109	\$315,135 49	.01,875	\$278,246 42	.02,415	\$376,537 81	.02,413	\$361,387 57	.02,455	.02,470

COMPARATIVE GRAIN STATEMENT—CONTINUED.
TO STOCKTON.

From.	Miles.	Weight.	CENTRAL PACIFIC RAILROAD.		CALIFORNIA COMMISSIONERS—PROPOSED.		KANSAS COMMISSIONERS.		ATCHISON, TOPEKA, AND SANTA FE.		Union Pacific Railway.	Chicago, Milwaukee, and St. Paul.
			Rate.	Charges.	Rate.	Charges.	Rate.	Charges.	Rate.	Charges.		
Banta	17	751,080	\$1 25	\$469 43	\$0 90	\$337 99	\$1 40	\$525 76	\$1 20	\$450 65	\$1 60	\$1 40
Lathrop	9	3,443,250	85	1,463 38	70	1,205 14	1 00	1,721 63	1 00	1,721 63	1 60	1 20
Lodi	13	5,256,930	1 05	2,759 89	80	2,102 77	1 20	3,154 16	1 20	3,154 16	1 60	1 20
Acampo	16	2,902,920	1 10	1,596 61	90	1,305 31	1 40	2,032 04	1 20	1,741 75	1 60	1 40
Galt	21	4,781,880	1 35	3,227 77	1 00	2,390 94	1 60	3,825 50	1 20	2,869 13	1 60	1 40
McConnells	29	292,740	1 60	219 56	1 10	161 01	1 60	234 19	1 40	204 92	2 80	1 60
Elk Grove	32	315,700	1 60	236 78	1 20	189 42	1 80	284 13	1 60	252 56	3 20	1 60
Walshall	9	424,190	80	169 68	70	148 47	1 00	212 10	1 00	212 10	1 60	1 20
Holden	11	475,570	90	214 01	80	190 23	1 20	285 34	1 20	285 34	1 60	1 20
Peters	15	5,760,000	1 00	2,880 30	80	2,304 24	1 20	3,456 35	1 20	3,456 35	1 60	1 20
Farmington	20	8,586,000	1 25	5,866 25	90	3,863 70	1 40	6,010 20	1 20	5,151 60	1 60	1 40
Trigo	23	1,789,130	1 40	1,252 39	1 00	894 57	1 60	1,431 30	1 40	1,252 39	2 40	1 50
Cometa	23	3,218,450	1 50	2,413 84	1 10	1,770 15	1 60	2,574 76	1 40	2,252 92	2 40	1 60
Clyde	28	5,289,830	1 50	3,957 37	1 10	2,909 41	1 80	4,231 86	1 40	3,702 86	2 60	1 60
Burnetts	32	673,520	1 60	538 82	1 20	404 11	1 80	605 17	1 60	538 82	3 20	1 60
Oakdale	34	4,248,400	1 60	3,398 72	1 20	2,549 04	1 80	1,548 26	1 40	1,354 72	3 20	1 60
Waverly	22	1,935,320	1 45	1,403 10	1 00	997 66	1 60	1,548 26	1 40	1,354 72	2 00	1 40
Milton	30	2,302,930	1 50	1,727 20	1 10	1,267 11	1 60	1,842 34	1 60	1,842 34	3 00	1 60
Cicero	30	217,240	2 10	228 10	1 10	119 48	1 60	173 73	1 60	173 73	3 00	1 60
Clay	31	166,560	2 10	174 89	1 20	99 94	1 80	149 90	1 60	133 25	3 00	1 60
Biggs	121	22,680	2 60	29 48	2 50	28 35	3 40	38 56	3 40	38 56	3 60	3 60
Chicago	144	149,050	2 95	219 85	2 78	207 18	3 60	268 29	3 80	283 20	3 80	3 80
Morrano	14	2,628,440	85	1,117 09	80	1,051 38	1 20	1,577 06	1 20	1,577 06	1 60	1 20
Ripon	19	7,396,590	95	2,513 38	90	3,328 57	1 40	4,177 61	1 20	4,437 95	1 60	1 40
Salida	22	5,285,460	1 15	3,039 14	1 00	2,642 73	1 60	4,228 37	1 40	3,690 82	2 00	1 40
Modesto	29	4,542,970	1 35	3,066 50	1 10	2,498 63	1 60	3,634 38	1 40	3,180 08	2 80	1 60
Ceres	33	4,716,950	1 45	3,419 79	1 20	2,890 17	1 80	4,245 25	1 60	3,773 56	3 20	1 60
Keyes	37	1,952,190	1 45	1,415 34	1 30	1,268 92	2 00	1,952 19	1 60	1,561 75	3 20	1 60
Turlock	42	5,330,800	1 60	4,234 64	1 40	3,731 56	2 10	5,597 34	1 60	4,294 64	3 20	2 00
Delhi	48	2,425,130	1 65	2,000 73	1 50	1,818 85	2 20	2,967 64	1 60	1,940 10	3 20	2 20
Livingston	52	747,170	1 65	616 41	1 60	507 74	2 30	859 25	1 60	597 74	3 20	2 40
Arena	55	56,060	1 70	47 64	1 70	47 64	2 30	64 45	1 80	50 45	3 20	2 40
Atwater	55	1,031,590	1 80	923 43	1 70	876 85	2 30	1,237 91	1 80	923 43	3 20	2 40
Merced	66	3,359,370	1 95	350 39	1 90	341 40	2 50	449 21	2 00	359 37	3 20	2 70

Borden	102	78,720	2 75	108 24	2 30	90 53	3 00	118 08	3 20	125 95	3 50	3 20
Fresno	121	195,390	2 95	288 20	2 50	234 24	3 40	332 16	3 40	332 16	3 60	3 60
Selma	136	340,860	3 20	545 38	2 64	449 97	3 50	596 58	3 60	613 55	3 80	3 80
Hanford	168	105,550	3 75	197 90	3 13	165 19	3 70	195 27	3 80	200 55	4 00	4 00
Lemoore	176	210,450	3 75	394 61	3 27	344 09	3 80	389 86	3 90	410 38	4 00	4 00
Average rate per ton per mile .....			.03.530	\$59,271 22	.02.908	\$47,735 68	.04.101	\$71,762 83	.03.747	\$62,525 33	.05.555	.04.112

COMPARATIVE CATTLE STATEMENT.

Showing Current Rates on Central Pacific Railroad as Compared with Proposed Rates by California Railroad Commissioners, Kansas Commissioners, Union Pacific Railway, for same mileage.

TO SAN FRANCISCO.

FROM.	Miles.	S. P. R. R. CURRENT RATES.		CAL. COM'RS PROPOSED RATES.		KANSAS COM'RS RATES IN EFFECT.	U. P. RY. CURRENT RATES.
			Hogs.		Hogs.	Cattle or Hogs.	Cattle or Hogs.
Stock Yards.....	9	\$9 50	\$9 50	\$7 90	\$7 90	\$10 00	\$36 00
Delaware Street.....	10	10 00	10 00	9 00	9 00	10 00	36 00
San Pablo.....	18	11 00	10 00	10 10	10 10	12 00	36 00
Pinole.....	24	12 00	10 00	11 20	11 20	13 00	36 00
Vallejo Junction.....	29	13 00	10 50	12 40	12 40	14 00	36 00
Port Costa.....	32	13 00	10 50	13 50	13 50	15 00	36 00
Martinez.....	36	13 00	10 50	14 60	14 60	16 00	36 00
Avon.....	39	13 00	10 50	14 60	14 60	16 00	36 00
Bay Point.....	42	13 00	10 50	15 80	15 80	16 50	36 00
McAvoy.....	45	13 00	10 50	16 90	16 90	16 50	36 00
Cornwall.....	50	13 00	10 50	16 90	16 90	17 00	36 00
Antioch.....	55	13 00	10 50	18 00	18 00	18 00	38 00
Brentwood.....	63	15 00	12 00	20 10	20 10	20 00	38 00
Byron.....	68	15 00	12 00	21 40	21 40	20 50	38 00
Bethany.....	77	15 50	12 50	23 10	23 10	21 00	40 00
Tracy.....	83	20 00	16 00	23 60	23 60	23 00	40 00
Banta.....	86	20 00	16 00	24 20	24 20	24 00	40 00
Lathrop.....	94	20 00	16 00	24 80	24 80	24 50	40 00
Stockton.....	103	20 00	16 00	25 90	25 90	26 00	40 00
Lodi.....	116	20 00	16 00	27 60	27 60	27 50	40 00
Acampo.....	119	20 00	16 00	27 60	27 60	27 50	40 00
Galt.....	124	20 00	16 00	28 20	28 20	28 00	40 00
McConnells.....	132	20 00	16 00	29 70	29 70	29 50	40 00
Elk Grove.....	135	20 00	16 00	29 70	29 70	29 50	40 00
Florin.....	142	20 00	16 00	31 30	31 30	30 50	40 00
Brighton.....	146	20 00	16 00	32 10	32 10	31 00	40 00
Sacramento.....	151	20 00	16 00	32 90	32 90	31 50	42 00
Haggins.....	158	24 00	19 50	33 70	33 70	32 00	42 00
Antelope.....	166	26 00	21 00	35 30	35 30	32 50	43 20
Roseville.....	169	28 00	24 00	35 30	35 30	32 50	43 20
Melrose.....	121	9 00	9 00	9 00	9 00	10 00	36 00
San Leandro.....	16	10 00	10 00	10 10	10 10	12 00	36 00
Haywards.....	21	10 00	10 00	11 20	11 20	13 00	36 00
Niles.....	30	10 00	10 00	12 40	12 40	14 00	36 00
Washington.....	34	10 00	10 00	13 50	13 50	15 00	36 00
Warm Springs.....	37	10 00	10 00	14 60	14 60	16 00	36 00
Milpitas.....	42	12 00	10 00	15 80	15 80	16 50	36 00
San José.....	48	16 00	13 00	16 90	16 90	17 00	36 00
Livermore.....	48	18 00	14 50	16 90	16 90	17 00	36 00
Pleasanton.....	42	17 00	13 50	15 80	15 80	16 50	36 00
Oakdale.....	137	27 00	21 50	30 50	30 50	30 00	40 00
Milton.....	133	27 00	21 50	28 90	28 90	29 50	40 00
Ione.....	151	30 00	25 00	32 90	32 90	31 50	42 00
Suisun.....	50	15 00	12 00	16 90	16 90	17 50	36 00
Elmira.....	60	20 00	16 00	19 10	19 10	19 00	38 00
Batavia.....	65	20 00	16 00	20 20	20 20	20 00	38 00
Dixon.....	69	20 00	16 00	21 40	21 40	20 50	40 00
Davis.....	77	20 00	16 00	23 10	23 10	21 00	40 00
Woodland.....	86	24 00	19 00	24 20	24 20	24 00	40 00
Knights Landing.....	95	25 00	20 00	25 30	25 30	24 50	40 00
Marysville.....	204	40 00	32 00	41 80	41 80	36 00	50 00
Gridley.....	221	44 00	37 50	44 50	44 50	37 00	50 00
Chico.....	247	47 50	43 00	46 60	46 60	39 00	50 00
Cottonwood.....	303	56 00	48 00	53 50	53 50	44 00	58 00
Anderson.....	310	57 00	48 50	53 50	53 50	44 00	58 00
Ripon.....	105	23 00	21 50	25 90	25 90	26 00	40 00
Salida.....	108	25 00	22 50	26 50	26 50	26 50	40 00
Modesto.....	114	28 00	25 00	27 00	27 00	27 00	40 00
Livingston.....	137	33 50	29 00	30 50	30 50	30 00	40 00
Merced.....	152	36 00	31 00	32 90	32 90	31 50	42 00

COMPARATIVE CATTLE STATEMENT—CONTINUED.
TO SAN FRANCISCO.

FROM.	Miles.	S. P. R. R. CURRENT RATES.		CAL. COM'RS PROPOSED RATES.		KANSAS COM'RS RATES IN EFFECT.	U. P. RY. CURRENT RATES.
			Hogs.		Hogs.	Cattle or Hogs.	Cattle or Hogs.
Athlone	162	\$37 00	\$31 50	\$34 60	\$34 60	\$32 00	\$42 00
Berenda	178	38 50	32 50	36 80	36 80	33 00	43 20
Madera	185	39 00	33 00	37 60	37 60	33 00	43 20
Sycamore	197	40 50	34 00	40 30	40 30	35 00	46 00
Fresno	207	41 50	35 00	41 00	41 00	36 00	50 00
Kingsburg	227	42 50	37 00	44 50	44 50	37 00	50 00
Cross Creek	235	43 00	38 00	45 60	45 60	38 00	50 00
Goshen	241	44 00	39 50	46 60	46 60	39 00	50 00
Tulare	251	45 00	40 50	47 80	47 80	40 00	50 00
Delano	282	49 50	44 50	51 20	51 20	42 00	50 00
Sumner	314	43 50	48 50	54 60	54 60	45 00	58 00
Average rate per ton per mile .....		.02.11	.01.79	.02.30	.02.30	.02.20	.03.57

EXHIBIT G.

N. G.—North Pacific Coast Railroad Company, from San Francisco to Duncan's Mills, 71½ miles.

N. G.—South Pacific Coast Railroad Company, from San Francisco to Santa Cruz, 80 $\frac{2}{3}$ miles.

N. G.—Nevada County Narrow Gauge Railroad Company, from Colfax to Nevada City, 22 $\frac{44}{100}$ miles.

B. G.—Northern California Railroad Company, from Marysville to Oroville, 26½ miles.

N. G.—San Joaquin and Sierra Nevada Railroad Company, from Brack's to Burson, 35 $\frac{70}{100}$ miles.

N. G.—Pacific Coast Railway Company, from Port Harford to Los Alamos, 63 $\frac{2}{100}$ miles.

B. G.—Visalia Railroad Company, from Visalia to Goshen, 7½ miles.

N. G.—Carson and Colorado Railroad Company (Third Division), from State line of California to Keeler, 107 $\frac{48}{100}$ miles.

B. G. (Southern Pacific).—San Pablo and Tulare Railway Company, from near Martinez to Tracy, 46 $\frac{51}{100}$ miles.

B. G. (Southern Pacific).—Berkeley Branch Railroad Company, from Shell Mound to Berryman, 3 $\frac{88}{100}$ miles.

B. G.—Vaca Valley and Clear Lake Railroad Company, from Elmira to Madison, 29 miles.

B. G. (Southern Pacific).—Southern Pacific Railroad Company, from San Francisco to Colorado River, 956 $\frac{60}{100}$ miles.

B. G.—Monterey Railroad Company, from Castroville to Monterey, 15 $\frac{12}{100}$ miles.

B. G.—Pajaro and Santa Cruz Railroad Company, from Pajaro to Santa Cruz, 21 $\frac{20}{100}$ miles.

B. G. (Southern Pacific).—Los Angeles and Independence Railroad Company, from Santa Monica to Los Angeles, 16 $\frac{88}{100}$ miles.

B. G. (Southern Pacific).—Los Angeles and San Diego Railroad Company, from Florence to Santa Ana, 27 $\frac{82}{100}$ miles.

B. G. (Southern Pacific).—Sacramento and Placerville Railroad Company, from Sacramento to Shingle Springs, $47\frac{7}{10}$ miles.

B. G. (Southern Pacific).—Amador Branch Railroad Company, from Galt to Ione, $27\frac{2}{10}$ miles.

B. G. (Southern Pacific).—Stockton and Copperopolis Railroad Company, from Stockton to Oakdale, 49 miles.

B. G. (Southern Pacific).—Northern Railway Company.

B. G. (Southern Pacific).—California Pacific Railroad Company, from Vallejo to Sacramento, $60\frac{3}{10}$ miles.

B. G. (Southern Pacific).—Napa Branch, from Atalanta to Calistoga, $34\frac{4}{10}$ miles.

B. G. (Southern Pacific).—Marysville Branch, from Davis to Knight's Landing, $18\frac{4}{10}$ miles.

B. G.—San Francisco and North Pacific Railroad Company, from San Francisco to Cloverdale, 85 miles; from Meacham's to Guerneville, 14 miles; total, 99 miles.

N. G.—Sonoma Valley Railroad Company, from Sonoma to Glen Ellen, $21\frac{4}{10}$ miles.

B. G.—California Southern Railroad Company, from National City to San Bernardino, $129\frac{7}{10}$ miles; completed to Waterman in November, 1885, 85 miles; total, $214\frac{7}{10}$ miles.

B. G.—Central Pacific Railroad Company, from Oakland Wharf to Terminal near Ogden, $872\frac{7}{10}$ miles; length of main line in California, $273\frac{1}{10}$ miles.

Synopsis of returns by *North Pacific Coast Railroad Company*, for the year 1884. Filed October 22, 1885. San Francisco to Duncan's Mills (N. G.), $79\frac{2}{10}$ miles.

Total earnings, passenger department	\$181,089 77
Total earnings, freight department	143,565 93
Total transportation earnings	<u>\$324,655 70</u>
Total income from all sources	\$332,038 05
Total expenses	<u>276,033 28</u>
Net income	<u>\$56,004 77</u>
Percentage of same to capital stock and net debt	$1\frac{4}{10}$ per cent.
Net earnings per passenger train mile	12 cents.
Net earnings per freight train mile	27 cents.
Earnings per mile road operated, $88\frac{2}{10}$ miles	\$3,658 09
Total train miles run	230,489
Total number of passengers carried	631,195
Total number tons freight carried (not including gravel)	65,104
Total freight mileage, or tons carried one mile	2,946,710
Average rate of local freight per ton per mile	$4\frac{3}{10}$ cents.
Percentage of expenses to total transportation earnings	85 per cent.

Synopsis of returns by *South Pacific Coast Railroad Company*, for the year 1884. Filed October 15, 1885. San Francisco to Santa Cruz, $80\frac{2}{10}$ miles.

Total earnings, passenger department	\$365,067 42
Total earnings, freight department	343,348 79
Total transportation earnings	<u>\$708,416 21</u>

Total income from all sources	\$743,924 56
Total expenses	538,850 63
Net income	<u>\$205,173 93</u>
Percentage of same to capital stock, and net debt	
Net earnings per passenger train mile	
Net earnings per freight train mile	
Total train miles run	590,222
Total number of passengers carried	1,488,130
Total passenger mileage, or passengers carried one mile	18,584,596
Total number of tons of freight carried (not including gravel)	1,933,167
Total freight mileage, or tons carried one mile	6,900,388
Average rate of fare per mile for all passengers	1 $\frac{3}{10}$ cents.
Average rate of local freight per ton per mile on roads operated by this company	4 $\frac{1}{10}$ cents.
Average rate of fare per mile, not including ferry or season tickets	2 $\frac{1}{10}$ cents.
Highest rate of fare per mile	7 $\frac{1}{2}$ cents.
No percentage of expense to total transportation earnings given.	

Synopsis of returns by *Nevada County Narrow Gauge Railroad Company*, for the year 1884. Filed September 28, 1885. Colfax to Nevada City (N. G.), 22 $\frac{64}{100}$ miles.

Total earnings from passenger department	\$34,435 15
Total earnings from freight department	50,426 51
Total transportation earnings	<u>\$84,861 66</u>
Total income derived from all sources	\$84,880 38
Total expenses	61,262 04
Total net income	<u>\$23,618 34</u>
Percentage of same to capital stock and net debt	\$4 $\frac{7}{10}$
Net earnings per passenger train mile	50 cents.
Net earnings per freight train mile	25 cents.
Earnings per mile of road operated	\$3,771 62
Total train miles run	47,781
Total number of passengers carried	39,136
Number of tons freight carried (not including gravel)	21,558
Total freight mileage, or tons carried one mile	344,816
Average rate of fare per mile for all passengers	8 $\frac{1}{10}$ cents.
Average rate of freight per ton per mile, on roads operated by this company	Not given.
Average rate of freight per ton per mile for all	16 $\frac{1}{10}$ cents.

Synopsis of returns by *Northern California Railroad Company*, for the year 1884. Filed October 19, 1885. Marysville to Oroville (B. G.), 26 $\frac{1}{2}$ miles.

Total earnings from passenger department	\$19,516 96
Total earnings from freight department	\$28,203 67
Total transportation earnings	<u>\$47,720 63</u>
Total income from all sources	
Total expenses	\$36,198 93
Net income	<u>\$11,521 70</u>
Percentage of same to capital stock and net debt	
Net earnings per passenger train mile	
Net earnings per freight train mile	
Earnings per mile road operated	\$1,800 78

Total train miles run	
Total number of passengers carried	
Number of tons of freight carried (not including gravel)	
Total freight mileage, or tons carried one mile	
Average rate of fare per mile for all passengers	
Average rate of local freight per ton per mile on roads operated by this company	
Percentage of expenses to total transportation earnings	75 per cent.

Synopsis of returns by *San Joaquin and Sierra Nevada Railroad Company* (N. G.), for the year 1884. Filed October 9, 1885. From Bracks to Burson, 35 $\frac{7}{10}$ miles.

Total earnings from passenger department	\$12,507 65
Total earnings from freight department	21,208 33
Total transportation earnings	\$33,715 98
Total income from all sources	\$33,834 60
Total expenses	30,769 02
Net income	\$3,065 58
Percentage of same to capital stock and net debt	
Net earnings per passenger train mile	
Net earnings per freight train mile	
Earnings per mile of road operated	
Total train miles run	36,665
Total number of passengers carried	21,512
Number of tons of freight carried (not including gravel)	19,375 $\frac{1}{10}$
Average rate of local freight per ton per mile	
Percentage of expenses to total transportation earnings	

Synopsis of returns by *Pacific Coast Railway Company*, for the year 1884. Filed November 5, 1885. Port Harford to Los Alamos (N. G.), 63 $\frac{8}{10}$ miles.

Total earnings from passenger department	\$32,068 77
Total earnings from freight department	103,372 22
Total transportation earnings	\$135,440 99
Total income from all sources	\$167,419 94
Total expenses	107,234 03
Total net income	\$60,185 91
Percentage of same to capital stock and net debt	
Net earnings per passenger train mile	
Net earnings per freight train mile	
Earnings per mile of road operated	
Total train miles run	
Total number of passengers carried	
Number of tons of freight carried (not including gravel)	
Average rate of fare per mile for all passengers	6 $\frac{1}{2}$ cents.
Total freight mileage, or tons carried one mile	1,583,327 $\frac{1}{2}$
Average rate of local freight per ton per mile	
Percentage of expenses to total transportation earnings	60 per cent.

Synopsis of returns by *Visalia Railroad Company*, for the year 1884. Filed December 14, 1885. Visalia to Goshen (B. G.), $7\frac{1}{8}$ miles.

Total earnings from passenger department.....	\$7,755 80
Total earnings from freight department.....	12,431 59
Total transportation earnings.....	<u>\$20,187 39</u>
Total income from all sources.....	
Total expenses.....	\$948 62
Net income.....	
Percentage of same to capital stock and net debt.....	
Net earnings per passenger train mile.....	
Net earnings per freight train mile.....	
Earnings per mile of road operated.....	
Total train miles run.....	44
Total number of passengers carried.....	
Number of tons freight carried (not including gravel).....	
Average rate of fare per mile for all passengers.....	7 cents.
Total freight mileage, or tons carried one mile.....	
Average rate of local freight per ton per mile.....	41 cents.
Percentage of expenses to total transportation earnings.....	

Synopsis of returns by *Carson and Colorado Railroad Company, Third Division* (N. G.), for the year 1884. Filed October 7, 1885. From State line of California to Keeler, $107\frac{8}{10}$ miles.

Total earnings from passenger department.....	
Total earnings from freight department.....	
Total transportation earnings.....	
Total income from all sources.....	
Total expenses.....	
Net income.....	None.
Percentage of same to capital stock and net debt.....	
Net earnings per passenger train mile.....	
Net earnings per freight train mile.....	
Earnings per mile of road operated.....	
Total train miles run.....	} No statistics kept.
Total number of passengers carried.....	
Number of tons of freight carried (not including gravel).....	} No statistics kept.
Average rate of fare per mile for all passengers.....	
Total freight mileage, or tons carried one mile.....	5 cents.
Average rate of local freight per ton per mile.....	
Percentage of expenses to total transportation earnings*.....	

* NOTE.—The railroad of this company is leased to the Carson and Colorado Railroad Company (a Nevada incorporation), which company, for the use of said railroad, agrees to pay the cost of operating same, and to keep same in good repair. The revenue is therefore included in the revenue or earnings of the Carson and Colorado Railroad Company. The earnings have not exceeded the actual cost of operating the road.

Synopsis of returns by *San Pablo and Tulare Railroad Company*, for the year 1884. Filed August 17, 1885. From near Martinez to Tracy (B. G.), $46\frac{51}{100}$ miles.

Total earnings from passenger department.....	} See Report of C. P. R. R. Co.
Total earnings from freight department.....	
Total transportation earnings.....	
Total income from all sources.....	
Total expenses.....	
Total net income.....	\$147,600 29
Percentage of same to capital stock and net debt.....	5 $\frac{3}{8}$ per cent.
Net earnings per passenger train mile.....	} See Report of C. P. R. R. Co.
Net earnings per freight train mile.....	
Earnings per mile of road operated.....	

Total train miles run.....	} Included in Report of C. P. R. R. Co.
Total number of passengers carried.....	
Number of tons of freight carried (not including gravel).....	
Average rate of fare per mile for all passengers.....	
Total freight mileage, or tons carried one mile.....	} See Report of C. P. R. R. Co.
Average rate of local freight per ton per mile.....	
Percentage of expenses to total transportation earnings.....	

Synopsis of returns of the *Berkeley Branch Railroad Company*, for the year 1884. Filed August 17, 1885. Shell Mound to Berryman (B. G.), 3 $\frac{83}{100}$ miles.

Total earnings from passenger department.....	
Total earnings from freight department.....	
Total transportation earnings.....	
Total income from all sources.....	\$9,560 50
Total expenses.....	} Reported by C. P. R. R. Co.
Total net income.....	
Percentage of same to capital stock and net debt.....	\$9,560 50
Net earnings per passenger train mile.....	4 $\frac{1}{2}$ per cent.
Net earnings per freight train mile.....	} Reported by the Lessees.
Earnings per mile of road operated.....	
Total train miles run.....	
Total number of passengers carried.....	} Included in Lessees' Report.
Number of tons freight carried (not including gravel).....	
Average rate of fare per mile for all passengers.....	
Total freight mileage, or tons carried one mile.....	
Average rate of local freight per ton per mile.....	} Reported by C. P. R. R. Co., Lessees.
Percentage of expenses to total transportation earnings.....	

Synopsis of returns by *Vaca Valley and Clear Lake Railroad Company*, for the year 1884. Filed August 17, 1885. Elmira to Madison (B. G.), 29 miles.

Total earnings from passenger department.....	\$14,234 26
Total earnings from freight department.....	64,691 20
Total transportation earnings.....	<u>\$78,925 46</u>
Total income from all sources.....	\$78,925 46
Total expenses.....	<u>70,661 88</u>
Total net income.....	<u>\$8,263 58</u>
Percentage of same to capital stock and net debt.....	2 $\frac{3}{4}$ per cent.
Net earnings per passenger train mile.....	
Net earnings per freight train mile.....	
Earnings per mile of road operated.....	\$2,721 57
Total train miles run.....	
Total number of passengers carried.....	
Number of tons freight carried (not including gravel).....	
Average rate of fare per mile for all passengers.....	6 cents.
Total freight mileage, or tons carried one mile.....	
Average rate of local freight per ton per mile.....	7 cents.
Percentage of expenses to total transportation earnings.....	

Synopsis of returns of the *Southern Pacific Railroad Company*, for the year 1884. Filed August 15, 1885. San Francisco to the Colorado River (B. G.), 956 $\frac{80}{100}$ miles.

Total earnings from passenger department.....	\$673,430 91
Total earnings from freight department.....	762,563 33
Total transportation earnings.....	<u>\$1,435,994 24</u>
Total income derived from all sources.....	\$3,501,019 85
Total expenses.....	<u>1,290,733 81</u>
Total net income.....	<u>\$2,210,286 04</u>
Interest on funded and other debts.....	
Surplus paid to sinking fund.....	\$100,000 00
Number dividends.....	
Earnings per mile of road operated, 202 $\frac{44}{100}$ miles, Northern Division.....	7,101 50
Earnings per train mile—total, mixed, passenger, and freight, 539,522 miles, Northern Division.....	\$2 66
Number of passengers carried.....	705,130 $\frac{1}{2}$
Number of passengers carried one mile.....	25,354,475
Number of tons freight carried (not including gravel).....	331,027
Average rate of fare per mile for all passengers.....	2 $\frac{44}{100}$ cents.
Total freight mileage, or tons carried one mile.....	20,154,955
Average rate of freight per ton per mile.....	3 $\frac{80}{100}$ cents.
Percentage of expenses to total transportation earnings.....	783 per cent.

Synopsis of returns by the *Monterey Railroad Company*, for the year 1884. Filed August 15, 1885. Castroville to Monterey (B. G.), 15 $\frac{12}{100}$ miles.

Total earnings from passenger department.....	Operated by the Southern Pacific R. R. Co., and included in its report.
Total earnings from freight department.....	
Total transportation earnings.....	
Total income from all sources.....	
Total expenses.....	
To net income (rental).....	\$20,400 00
Percentage of same to capital stock and net debt.....	
Net earnings per passenger train mile.....	Operated by the Southern Pacific R. R. Co., and included in its report.
Net earnings per freight train mile.....	
Earnings per mile of road operated.....	
Total train miles run.....	
Total number of passengers carried.....	
Number of tons freight carried (not including gravel).....	
Average rate of fare per mile for all passengers.....	
Total freight mileage or tons carried one mile.....	
Average rate of local freight per ton per mile.....	
Percentage of expenses to total transportation earnings.....	See report of S. P. R. R. Co.

Synopsis of returns by *Pajaro and Santa Cruz Railroad Company*, for the year 1884. Filed August 15, 1885. Pajaro to Santa Cruz (B. G.), 21 $\frac{20}{100}$ miles.

Total net income.....	\$15,900 00
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NOTE.—Operated by the Southern Pacific Railroad Company and included in its report.

Synopsis of returns by *Los Angeles and Independence Railroad Company*, for the year 1884. Filed June 17, 1885. Santa Monica to Los Angeles (B. G.), 16 $\frac{8}{100}$ miles.

Total earnings from passenger department	
Total earnings from freight department	
Total transportation earnings	
Total income derived from all sources	\$20,196 00
Total expenses	
Total net income	\$19,935 73
Percentage of same to capital stock and net debt	3.967 per cent.
Dividends declared (4 per cent)	\$20,100 00
Net earnings per passenger train mile	
Net earnings per freight train mile	
Earnings per mile of road operated	
Total train miles run	
Total number of passengers carried	
Number of tons of freight carried (not including gravel)	
Average rate of fare per mile for all passengers	
Total freight mileage, or tons carried one mile	
Average rate of local freight per ton per mile	
Percentage of expenses to total transportation earnings	

NOTE.—Leased and operated by the Central Pacific Railroad Company.

Synopsis of returns by the *Los Angeles and San Diego Railroad Company* (B. G.), for the year 1884. Filed August 15, 1885. From Florence to Santa Ana, 27 $\frac{8}{100}$ miles.

NOTE.—Operated by the Central Pacific Railroad Company, and included in its report.

Synopsis of returns by the *Sacramento and Placerville Railroad Company* (B. G.), for the year 1884. Filed August 17, 1885. From Sacramento to Shingle Springs, 47 $\frac{71}{100}$ miles.

Total earnings from passenger department	\$41,778 16
Total earnings from freight department	76,056 87
Total transportation earnings	\$130,441 31
Total income derived from all sources	\$134,121 31
Total expenses	63,063 19
Total net income	\$71,158 12
Percentage of same to capital stock and net debt	2 $\frac{31}{100}$ per cent.
Net earnings per passenger train mile	\$1 14
Net earnings per freight train mile	\$1 45
Earnings per mile of road operated	\$2,734 88
Total train miles run	47,698
Total number of passengers carried	30,460 $\frac{1}{2}$
Number of tons of freight carried (not including gravel)	45,502 $\frac{1}{2}$
Average rate of fare per mile for all passengers	5.6 cents.
Total freight mileage, or tons carried one mile	996,657 $\frac{1}{2}$
Average rate of local freight per ton per mile	
Percentage of expenses to total transportation earnings	48 $\frac{46}{100}$ per cent.

Synopsis of returns by the *Amador Branch Railroad Company* (B. G.), for the year 1884. Filed August 17, 1885. From Galt to Ione, 27²⁰/₁₀₀ miles.

Total transportation earnings	\$41,994 00
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NOTE.—See report of Central Pacific Railroad Company, lessees.

Synopsis of returns by the *Stockton and Copperopolis Railroad Company* (B. G.), for the year 1884. Filed August 17, 1885. From Stockton to Oakdale, — miles.

NOTE.—See report of Central Pacific Railroad Company, lessees.

Synopsis of returns by the *Northern Railway Company* (B. G.), for the year 1884. Filed August 17, 1885.

NOTE.—See report of Central Pacific Railroad Company, lessees.

Synopsis of returns by the *California Pacific Railroad Company* (B. G.), for the year 1884. Filed August 17, 1885. From Vallejo to Sacramento, 60.3900 miles. Napa Branch—From Adalante to Calistoga, 34.4800 miles. Marysville Branch—From Davis to Knights Landing, 18.6400 miles.

Net income	\$598,876 00
Percentage of same to capital stock and net debt	3 ²⁰ / ₁₀₀ per cent.

NOTE.—See report of Central Pacific Railroad Company, lessees.

Synopsis of returns by *San Francisco and North Pacific Railroad Company*, for the year 1884. Filed November 30, 1885. San Francisco to Cloverdale (B. G.), 85 miles.

Total earnings from passenger department	\$313,272 94
Total earnings from freight department	245,356 92
Total transportation earnings	<u>\$558,629 86</u>
Total income derived from all sources	\$602,907 19
Total expenses	<u>353,440 94</u>
Net income	<u>\$248,966 25</u>
Percentage of same to capital stock and net debt	
Net earnings per passenger train mile	
Net earnings per freight train mile	
Earnings per mile of road operated	
Total train miles run	181,788
Total number of passengers carried	
Number of tons freight carried, not including gravel	
Average rate of fare per mile for all passengers	
Total freight mileage, or tons carried one mile	
Average rate of local freight per ton per mile	
Percentage of expenses to total transportation earnings	55 ²² / ₁₀₀

Synopsis of returns by *Sonoma Valley Railroad Company*, for the year 1884. Filed November 30, 1885. Sonoma to Glen Ellen (N. G.), $21\frac{43}{100}$ miles.

Total earnings from passenger department.....	\$30,829 02
Total earnings from freight department.....	\$38,991 35
Total transportation earnings	<u>\$69,895 37</u>
Total income derived from all sources.....	
Total expenses	\$52,549 69
Total net income	<u>\$17,345 68</u>
Percentage of same to capital stock and net debt.....	
Net earnings per passenger train mile	
Net earnings per freight train mile	
Earnings per mile of road operated.....	
Total train miles run.....	32,720
Total number of passengers carried	
Number of tons of freight carried (not including gravel).....	
Average rate of fare per mile for all passengers	
Total freight mileage, or tons carried one mile.....	
Average rate of local freight per ton per mile	
Percentage of expenses to total transportation earnings.....	75 $\frac{18}{100}$ per cent.

Synopsis of returns by *California Southern Railroad Company*, for the year 1884. Filed April 20, 1885. National City to San Bernardino (B. G.), 129.750 miles.

Total earnings from passenger department.....	\$7,306 11
Total earnings from freight department.....	11,442 50
Total transportation earnings	<u>\$18,748 61</u>
Total income derived from all sources.....	\$19,145 03
Total expenses	<u>264,659 23</u>
Total net deficit for the year.....	\$245,514 20
Percentage of same to capital stock and net debt.....	
Net earnings per passenger train mile	
Net earnings per freight train mile	
Earnings per mile of road operated.....	
Total train miles run.....	51,319
Number of passengers carried.....	3,450
Number of tons of freight carried (not including gravel).....	3,736
Average rate of fare per mile for all passengers	4.33 cents.
Total freight mileage, or tons carried one mile	163,981
Average rate of local freight per ton per mile	6.967 cents.
Percentage of expenses to total transportation earnings.....	

NOTE.—On November last this road was completed from San Bernardino to Waterman, on the Atlantic and Pacific Railroad, a distance of 85 miles, making the entire distance $214\frac{1}{2}$ miles from Waterman to National City.

Synopsis of returns by *Central Pacific Railroad Company*, for the year 1884. Filed August 28, 1885. Oakland Wharf to terminal, near Ogden (B. G.), $872\frac{778}{1000}$ miles. Length of main line in California, $273\frac{788}{1000}$ miles.

Total earnings from passenger department.....	\$8,342,157 04
Total earnings from freight department.....	<u>13,049,776 80</u>
Miscellaneous earnings—rent of telegraph lines, warehouses, etc.....	<u>\$774,172 44</u>
Total transportation earnings	<u>\$22,166,106 28</u>

Total income derived from all sources.....	\$23,265,268 70
Total expenses.....	17,363,704 65
Total net income (not including interest).....	<u>\$5,056,564 05</u>
Percentage of same to capital stock and net debt.....	3.93
Net earnings per passenger train mile.....	\$0 92
Net earnings per freight train mile.....	\$1 02
Earnings per mile of road operated (average, 2,957 miles).....	\$7,496 14
Total train miles run.....	10,684,434
Total number of passengers carried.....	8,773,853
Total number of tons freight carried.....	2,868,410
Highest rate of fare per mile for any distance.....	6 cents.
Lowest rate of fare per mile for any distance.....	1.66 $\frac{2}{3}$ cents.
Average rate of fare per mile (not including season tickets) received from local passengers.....	2.52 cents.
Total freight mileage, or tons carried one mile.....	664,507,819
Average rate of local freight per ton per mile.....	2.83 cents.
Percentage of expenses to total transportation earnings.....	

EXHIBIT H.

INCIDENTAL EXPENSES OF THE BOARD OF RAILROAD COMMISSIONERS FOR THE YEAR ENDING DECEMBER 31, 1885.

To rent of offices, 12 months, at \$71 50 per month.....	\$858 00
Stenographer, 12 months:	
E. A. Girvin, under old law, to May 29 (5 months).....	500 00
C. J. Murphy, under new law, from June 13 to Dec. 31 (7 months).....	140 00
To fuel, lights, postage, expressage, subscriptions, stationery, etc.....	483 40
	<u>\$1,981 40</u>

Attest:

W. R. ANDRUS,
Secretary of the Board.

December 26, 1885.

BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA.

In accordance with Section 2 of the Act approved April 15, 1880, Chapter 59, Statutes of California, a requisition for three thousand printed copies of the foregoing report, including the appendix, which has been adopted and approved as the report of said Commission for the year 1885, is hereby made upon the Superintendent of Public Printing.

G. J. CARPENTER,
President Railroad Commission.

Attest:

[SEAL.]

W. R. ANDRUS,
Secretary of the Board.

REPORT

OF

COMMISSIONER W. W. FOOTE.

[THIRD DISTRICT.]

1. The first part of the paper is devoted to a general discussion of the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β .

2. In the second part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

3. In the third part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

4. In the fourth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

5. In the fifth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

6. In the sixth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

7. In the seventh part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

8. In the eighth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

9. In the ninth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

10. In the tenth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

11. In the eleventh part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

12. In the twelfth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

13. In the thirteenth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

14. In the fourteenth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

15. In the fifteenth part, the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β is solved.

REPORT.

BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF
CALIFORNIA, AT OFFICE IN THE CITY OF
SAN FRANCISCO, January 25, 1886.

To his Excellency GEORGE STONEMAN, Governor of the State of California:

SIR: My associates upon the Board of Railroad Commissioners have recently filed with you their report for the current year. It is a document of great verbosity, but this is not its only merit.

Lord Macaulay, in one of his celebrated "critical essays" upon a biographical work submitted to him for review, says that the author seems to have entered into a contract with the literary executors to furnish the facts, whilst he (the author) furnished the praise. Much the same criticism might be truthfully applied to the author (Mr. Carpenter) of this majority report. The Central Pacific Railroad Company has furnished our office with much data, and Mr. Carpenter has devoted a hundred manuscript pages of his report, to what seems to me, to be fulsome and needless eulogy of that corporation and its managers.

It is perhaps needless for me to say that I deny the truth of Mr. Carpenter's so called facts, and repudiate his wholesale adulation of those artificial persons, whom he never names except to praise.

SOME SPECIMEN BRICKS FROM THE MAJORITY REPORT.

The opening sentence of this report undertakes to place the two Commissioners in a specified location (where they stood before has been a matter of some speculation hitherto), for you are gravely informed by them, in the opening sentence of their report, that "the feet of this Commission are planted not in party platforms, but in the Constitution by which it was created."

If that sacred instrument, and all its provisions relating to railways, are not trampled to death by these gentlemen during the last year of their term, then indeed have its makers cause for very great congratulation.

This reference to "party platforms" is an unfortunate one for Mr. Carpenter and his associate, viewed in the light of announcements solemnly made by them only a few years since. The San José Convention, by which organization both of these gentlemen were nominated, had this, among other things, to say upon the questions then agitating the public mind:

Resolved, That railroad fares and freights should be materially reduced; discriminations in favor of localities or persons should be prohibited, and we condemn the majority of the Railroad Commissioners of this State for their faithlessness in the discharge of their official duties. The nominees of the Democratic party will, if elected, carry out, in letter and spirit, the declarations of this resolution, and *relieve the people to the extent of their jurisdiction from the exactions and injustice now practiced with impunity by the railroad company.*

Mr. Carpenter and Mr. Humphreys were doubtless then "planted in the Constitution," but they agilely shifted position to the "party platform," went upon the rostrum and solemnly gave in their adhesion to the declarations contained in that platform. Was this proceeding a mere farce, or were they merely performing at that time the great political straddling act, which candidates for office have heretofore made both famous and familiar?

The italicized portion of this resolution declared, as a fact, that the railroad company *practiced exactions and injustice with impunity*. The acceptance of this statement as a fact, was a condition precedent to a nomination upon the Democratic ticket, at San José. Both Messrs. Carpenter and Humphreys indorsed the statement at that Convention, presumably, without evasion or mental reservation.

Nothing has yet been done by this Commission to prevent the "exactions" and "injustice" so "practiced."

MR. CARPENTER THEN AND NOW.

This was a fair promise and was satisfactory at the time. But it was not the only one made. On the third day of October, A. D. 1882, there appeared in the San Francisco *Examiner* an open letter from Commissioner Carpenter for the perusal of his constituents, and intended as a bid for their votes. Here would-be-Commissioner Carpenter then in an apostrophe to the Democratic party, before he and Commissioner Humphreys had "planted their feet in," or been nailed to the Constitution. He says:

As it is upon the Chinese question, so with reference to the devouring monsters known as corporate monopolies, which owe their existence and longing for plunder to the Republican party. To break their power and arrest their progress, repentant Republicans, or other partisans, must not only act and vote with the Democratic party, but they will find that their only stronghold within the State, is its much derided sovereignty. But to most Republicans, State rights and State wrongs are all the same, just as one or the other happen to suit their purposes. Surely, no party, however devoted to mischief, could have entailed upon the State a more fatal curse than corporate monopolies, having nothing but themselves with which to compete, while outlawed American life and labor, love and hope, are depreciated, discounted, and cheapened by Chinese servitude and brutality.

Not satisfied with this confession of faith, but to make it more apparent that he believed in the "exactions and injustice practiced with impunity" by the railroads in this State, Commissioner Carpenter further declares himself with reference to the platform upon which his "feet" then, at least were "planted":

Taking care to make no promise or pledge inconsistent with the free and fearless exercise of such judgment, I shall steadfastly adhere, both before and after the election, to the platform and resolutions of my party. So far as they relate to the office of Railroad Commissioner, they are pledges made as conditions precedent to nomination, and binding me in the event of success, to the extent of my official power and of my ability to do and perform what they require. Then, and not till then, will it become my duty, animated by a laudable ambition, in friendly and honorable concert with my fellow Commissioners, to test, honestly and thoroughly, the possible efficiency of the Railroad Commission for the vital purposes of its creation.

Nor was this all. Mr. Carpenter, in a summary of the powers and duties of Railroad Commissioners, contained in the same letter, said this:

First—They [the railroad companies] are common carriers for hire, and the means, methods, franchises, and facilities of their business are dedicated to the free and equal use of the people, and should be controlled and regulated in the interest of all concerned.

Fourth—For all the wrongs and abuses alleged against the Central Pacific, or other railroad companies, speedy and adequate remedies are provided, and in case of my election, I shall deem their prompt and vigorous enforcement an imperative duty.

Commissioner Carpenter then had settled convictions concerning the basis upon which rates should be fixed for the Central Pacific Railroad Company. Hear him then:

They should be paid, as I distinctly stated in the Convention by which I was nominated, for costs and risk of service. To apply the rule more fully and specifically, they should be permitted to make only such charges, and to receive only such rates, as will pay the expense of operation and maintenance of roads dedicated to the public service, with net profits equal to ruling rates of interest on their actual cost, not exceeding their real value, assessed according to law for purposes of taxation.

Mr. Carpenter distinctly says in October, 1882, as the result of his deliberate judgment then, and for the purpose of securing the position which he now occupies, that "rates should be so regulated as to pay ruling rates of interest upon their actual cost, not exceeding their real value, assessed according to law for purposes of taxation."

This is fair and equitable to both the railroads and their patrons, and, had it been carried out, there would have been the "material reductions" promised before the election, but, seemingly, now as far off as ever.

Now mark how plain a statement shall show the utter inconsistency of Mr. Carpenter's course. "Old files are dangerous things" to those who adopt one mode of procedure at one time, and change it to suit their convenience.

On the twentieth day of February, 1883, Mr. A. N. Towne, in answer to certain questions propounded to him by this Board, gave the valuations of the Central Pacific Railroad property in this State as follows:

Value of railroad.....	\$23,485,629 00
Value of other property.....	5,431,665 00
Total value.....	28,916,694 00
Taxes charged.....	475,653 41
Taxes paid.....	236,337 57

This valuation included the "Central Pacific" and its leased lines.

Mr. Carpenter's ante-election promise was to allow the Central Pacific Railroad Company a net profit equal to "ruling rate of interest" upon their assessed valuations, which in round numbers was the sum of \$29,000,000—of course deducting as he says "the expense of operation and maintenance of roads dedicated to public service." I purposely leave in this calculation the amount of \$5,431,665, given as the value of "other property" by Mr. Towne; it really should be deducted from the total valuation of railroad property in this State, \$29,000,000.

In the same communication before referred to, Mr. Towne gives the following answer to this question:

Eighth—How much of your gross earnings came from local passengers? How much from local freights?

Answer—Gross earnings from the entire system of local passengers in 1882 were \$4,980,370 51; and from local freights, \$12,340,777 31.

Our statistics are not made up so as to show how much of each was in the State of California.

The total of these figures of "local earnings" on passenger and freight therefore, according to Mr. Towne, is the sum of \$17,321,147 82.

As the report of Mr. Towne does not show what proportion of this vast sum was from California business, it will be necessary to estimate this amount. Considering upon any fair business basis that Utah, Nevada, and Arizona are the only places which could be fairly claimed as "local" in Mr. Towne's estimate, and comparing by means of population, at least two thirds of this

vast sum earned from "local" passengers and freight may be fairly credited to California. This would amount to the sum of \$11,547,431 67.

If fifty per cent of this amount is deducted for "operating expenses" and "maintenance," it leaves a net profit of \$5,773,715 83. This deduction of one half of the gross earnings for operating expenses is more than liberal, but under the modern system of railroad bookkeeping, and the items which are improperly placed to the "operating expense account," it will perhaps be denied by those who are interested in continuing railroad "exactions and injustice."

Upon these figures, therefore, with Mr. Carpenter's promise, the accounts would stand thus:

Total value of Central Pacific Railroad Company's property in California...	\$28,916,694 00
Net earnings of said property, after deducting cost of operating expenses and maintenance	5,773,715 83

These figures demonstrate that the net earnings of the Central Pacific in the year 1882 were about twenty per cent of the actual cash value of railroad property in this State, according to the Assessors' value and Mr. Carpenter's pledge. Is this twenty per cent what Mr. Carpenter calls the "ruling rate of interest?" Is it not rather the ruthless robbing of the people under cover of legal right? Is it not what all tyrannical corporations will exact, unless restrained by the strong hand of the law and its sworn officers?

In 1882 Mr. Carpenter was denouncing the Central Pacific Railroad Company as "the pendragon of the Republican party" (whatever that may be), and at the same time and in the same euphonious language, was referring to those "devouring monsters known as corporate monopolies, which owe their existence and longing for plunder to the Republican party." Were these statements made from a conviction of their truth, or were they "mere sound and fury, signifying nothing," save a desire to catch Democratic votes. Under the heading of "Unequal Conditions and Resulting Monopoly," in his letter of October 3, 1882, Commissioner Carpenter thus gives vent to his pent up wrath against the Central Pacific Railroad Company:

Were conditions equal, the law of demand and supply, the want of transportation and competition for its legitimate profits, would be the governing factors of the situation. But, by reason of the unequal conditions resulting from national, State, and municipal aid to a favored corporation, it has become and is a huge monopoly, holding in its exacting grasp every commercial and industrial enterprise and interest in the State. Connecting, pooling, and consolidating with every line and system of railways looking to the Pacific Coast, with locomotives howling across the mountains of the north and the deserts of the south, it has made the trade and travel of the continent and the commerce of two oceans tributary to its enterprising and privileged rapacity.

All this was said in 1882, to "tickle the ear of the groundlings." Things have changed since then. This corporation, which was then "privileged" to exercise its "rapacity" without restraint, has now, in his opinion, become a very tractable sort of being.

That which in 1882 was "privileged rapacity" has now become a very different thing, for you are gravely told by Mr. Carpenter, in his report, that, "all things considered," these "rapacious monsters" of other days "are now operating their lines at reasonable and constantly diminishing rates." And this, in face of the fact, that the roads are now operated by the same men and in the same way as when they were so vehemently denounced.

MR. HUMPHREYS' FORMER OPINIONS.

Commissioner Humphreys was perhaps less voluble than Mr. Carpenter, but his ante-election utterances have no uncertain ring. He too indorsed the San José platform in its letter and spirit. He did more. In a speech read by him at San Rafael, and subsequently printed and distributed among his constituents, he gave additional reasons for the faith which he then so ardently professed. In that speech, read on the thirty-first day of July, 1882, he says:

Mr. President and fellow citizens of Marin County: Not being in the habit of addressing public assemblies, I must beg your kind indulgence on this occasion while I read my declarations on the all absorbing and momentous question of railroad transportation now agitating the minds of the people of this commonwealth. Before doing so I desire, however, to state that during the progress of this campaign I shall endeavor to make a personal canvass through Marin County and become better acquainted with its citizens, their wants and requirements. Having had the honor of receiving my nomination as Railroad Commissioner at the hands of the Second District Democratic Convention, held at San José, June, 1882, I have already, by letter, most emphatically indorsed every principle of the platform adopted by that Convention, and it now affords me pleasure personally to give assurance of the keen appreciation I feel for the high honor conferred, and at the same time to state my sense of the important requirements of the position to which I aspire. Should I be elected to the office I will do justice to the people, and shall endeavor to secure and protect them in all their rights. I will not be influenced or controlled in the remotest degree in my plain and manifest duty by railroad or any other influences. I am decidedly in favor of the speedy and total abolishment of every species of discrimination, whether as to persons or places; the discontinuance of the contract system in its arbitrary application to individuals or sections, and the absolute removal of all those grievances against which the people now complain. As a Democrat and a citizen understanding the wants of the people, I have to say, if elected, I will do all in my power to effect such a material reduction of freights and fares as will be just and satisfy the reasonable expectations of the public and give relief to the people, whose interests I am called upon to protect and maintain. I believe the amount of reduction of fares and freights should be determined by a speedy and thorough investigation of the gross and net profits realized by the transportation companies, allowing them a fair return based upon the actual and present value of the roads and equipments. The Constitution of this State has placed the arbitrament of this great question of transportation in the hands of the Railroad Commission to decide impartially between the people and the corporations. Recognizing the fact that the struggle between the corporations and the individual is an unequal one, and that the individual is the weaker and less capable of maintaining his rights, I shall, if elected, be found on the side of the people, protecting them in their rights against all *extortions, excessive charges, and discriminations as to persons or places, and all other abuses, and shall endeavor to establish a proper equilibrium between the common carriers and their patrons, from the weakest to the most influential in the State.*

I feel the grave responsibilities of the position to which I aspire. I know that great and vital issues must necessarily be presented before the Board of Railroad Commissioners, and I think that my official acts and life in the past thirty-three years in this State are, at least, some guarantee of what may be expected in the future. Every complaint, no matter by whom made, respecting fares and freights, and coming within the jurisdiction of this Board, shall, if I am elected, receive prompt and careful attention, and every citizen fully protected, and every abuse, so far as it lies in my power, corrected without fear or favor.

In conclusion, permit me to say that, if elected, it shall be my aim to perform my duty fearlessly and faithfully, and so discharge my official obligations as to merit the approbation of my fellow-citizens.

These declarations of Mr. Humphreys are not very explicit, but they elicited hearty applause, because they had the right ring and were supposed to be sincere.

Mr. Humphreys has not been very active as a talker upon this Commission; but it is the votes that tell. There is no record of any roll call upon our minutes, where Mr. Humphreys' name is not found voting upon the same side with Commissioner Carpenter. He voted against the abolition of the "special contract system," since abandoned voluntarily by the railroad company, yet, at San Rafael, more than a month after his nomination, he said this: "I am decidedly in favor of the speedy and total abolishment of

every species of discrimination, whether as to persons or places; *the discontinuance of the contract system, in its arbitrary application to individuals or sections*, and the absolute removal of all these grievances against which the people now complain."

As shown above, Mr. Humphreys' first official act of importance was to concur with Mr. Carpenter in the continuance of the very system of contracts which he had shortly before so vigorously denounced.

I do not think this gentleman uses language to conceal his thoughts, and had always assumed that when this subject of "special contracts" came before the Board, it would be unhesitatingly abolished, and by a unanimous vote.

It is useless to recapitulate the history of that transaction. It is fully set forth in a former report. It was the commencement of that "two to one" system of voting upon all questions of importance coming before the Board, and which has since continued with unvarying monotony.

FORMER UTTERANCES CONTRASTED WITH STATEMENTS IN THE PRESENT REPORT.

At some length I have given the former views of my associates, for the purpose of contrasting them with some of the matured utterances of the majority, as contained in this report.

The language used by my associates before the election is in vivid contrast with that now sent to the people of this State, through you, in their report. I present herewith a few extracts from this report, which are not less fulsome than the general tenor of the whole document, which Mr. Carpenter writes, and Mr. Humphreys approves, by signing the same.

Commenting upon his order which defeated the freight schedule, presented by myself, he says:

This order embodies very conclusive reasons for its adoption. It distinctly discerns and denies the drivel and pretense of resolutions, by which vague charges of extortions and discriminations are resolved into something like Carlyle's "solution of universal slush." It takes decided issue with the stale assertions of railroad abuses, not specified, and which shippers have failed to discover or expose. It recognizes the rights of the real parties in interest, so often falsely personated by partisan road agents, who have been totally ruined by having nothing on earth to ship, and so are good enough to "demand relief for others." Upon every principle of justice and decency, it assumes that in default of evidence upon which a Justice of the Peace would render judgment for one dollar, the alleged abuses are not proven, much less "demonstrated." It repudiates unsupported suppositions and assertions of discrimination which, in the mouths of howling agitators, have lost their legal meaning, and requires some evidence of their actual existence, whereof the records of this office are as barren as the Extra Session, and as *those of the Courts which always had and now have the exclusive jurisdiction of actions sounding in damages for the alleged abuses*. Thus it is grounded, not only in the clearest presumptions of law and fact, but also in the uncontroverted proof that the freight rates in question are among the lowest in the schedules of this State, and that all things being considered, the railroads concerned are maintained and operated by thoroughly competent and accommodating managers, and at reasonable and constantly diminishing charges.

In 1882, to Mr. Carpenter's mind, "corporate monopolies" were "a fatal curse," and lurid visions of a "Republican pendragon" rose before his astonished mental gaze, whenever he mentioned the Central Pacific Railroad Company; both he and Mr. Humphreys then prated earnestly about corporate exactions and discriminations, as actually existing evils, which ought to be prevented; "compulsory contracts" were also things of evil which their joint efforts, "in honorable concert" with myself, were to be summarily frowned upon and disposed of; they were "clearly repugnant to the law governing the public use of railroads, and should be annulled and prohibited." And yet, when the question came up, they were approved and sustained by a decision of the majority of this Board. Rates which, in

1882, were "exactions" and "extortions," have now mysteriously become "fair and reasonable." What was once a grinding monopoly has suddenly become a fair and beneficent corporation; and the language now applied to this former pendragon is so fulsome as to almost smack of irony. "All things being considered, the railroads concerned are maintained and operated by thoroughly competent and accommodating managers, and at reasonable and constantly diminishing charges."

ANOTHER WAY OF PUTTING IT.

The following extract from the majority report is said to be a quotation from the last annual report of the Railroad Commissioners of New Hampshire:

Placing the burden of proof where the law does, it was held by the Commission, as a rule of procedure, that those interested were entitled to a hearing, and if no complaint appeared, then it would be proper to assume that the rates already established were fair and reasonable.

This extract is quoted with approval by the majority, when they must have heard a hundred times that formal complaints were not made to this Board for reasons not complimentary to its members, and therefore not given herein. Besides, the theory heretofore advocated by Mr. Carpenter was that "investigation," not upon complaint merely, but of its own motion upon the part of this Board, should precede action. A presumption in the absence of complaints that rates were "fair and reasonable," because they existed and were enforced, is a conclusion too utterly absurd to deceive anybody. It is one of those stale platitudes, which the better understanding of corporate methods obtaining with the last few years, has utterly and thoroughly exploded.

WHOLESALE ADULATION UNSTINTINGLY APPLIED.

In that portion of his report where Mr. Carpenter gives the unchecked rein to his imagination, and opens the very floodgates of his eulogy, under the meaningless heading of "*The State and its Pioneer Railroad, both Monopolists*," he uses this language:

To have these realized and foregone advantages from the hypothetical beginning, would be to write a truthful and impartial history of the Central Pacific Railroad. Less than twenty years ago it was snowed under at one end and greeted with chilling indifference at the other. By faithless financiers, and the stockholders of steamboat and navigation companies, it was regarded with sinister distrust. By every interested partisan of a railroad route or mountain pass, and by every newspaper that had been denied the unmerited gratuity or patronage demanded, it was stigmatized as the "Dutch Flat swindle." In perpetual servitude to the Federal Government for postal and military purposes, and incumbered by loans of credit to aid and insure its construction, it drew the fire of Government contractors and the envy of impoverished political economists. Because its builders were deservedly successful and "built better than they knew," they were assailed by reformers who knew just enough to rail about subsidies and make a senseless noise about something that was none of their business.

This extract is quoted here because I feared that those who attempt to read the majority report will put it down before reaching this choice bit of flattery to the railroad managers.

It contains much that is worthy of comment. The Central Pacific is not the "pioneer" railroad of California, a fact which even Mr. Carpenter's assertion of it cannot make the people of the State believe.

That portion of this extract where Mr. Carpenter denounces the whole

people of this State "who rail about subsidies" and make a "senseless noise about something that is none of their business," approaches the heights where even impudence itself would stand appalled.

Pausing for a moment in his wild and causeless denunciation of those who do not approve of his official action, Mr. Carpenter curbs his anger sufficiently to pen the following foolishly poetic lines, in honor of whom his turgid style leaves the reader to conjecture. The following sentence reminds one of the ill-conceived fancies of those who have been aptly described as "possessing the melancholy madness of the poet without his inspiration."

Because the sun, in all his journeyings, had flattered the hilltops of but one California, and looked down upon but one Central Pacific Railroad, the road had a monopoly of actual and possible developments, and the State had a bloated monopoly in the road and the sun.

Whether this is intended as a compliment to the "sun," the "Pacific Railroad," or to the State of California, the author leaves his readers in doubt. The lurid imagery of the first few lines, together with the suggestion of "kissing" in the next, to one who did not know the Chairman's austere manner, might lead to the belief that he had become a believer in the existence of "Peris;" had, in fact, changed his faith, become a follower of Zoroaster, and a worshiper of the sun. If this is not the correct solution of Mr. Carpenter's conundrum, I give it up, and leave it to your Excellency to solve.

FURTHER CONSIDERATION OF THE MAJORITY REPORT.

My associates quote very freely from the reports of other Railroad Commissioners, from judicial opinions, and the statements of railroad experts, to sustain the views which they hold, and to elucidate the principles which they think should control in fixing rates in this State. It is impossible to extract from this majority report all the expletives which are so freely hurled at myself and others; for even in their citation of authorities, where they find a particularly fierce denunciation, my associates adopt it as their own, and apply it to somebody, either individually or in the aggregate.

Mr. Carpenter, in 1882, says this:

In this connection I quote as my own the opinion of Judge Black, in his letter to the New York Chamber of Commerce, referring to the subsidized Union and Pacific Railroad Companies.

He then quotes this from that great statesman and jurist:

These companies, which built their railroads with capital donated by the public, have the same rights as other companies to charge a reasonable toll, but their demand of excessive tolls, though not worse in law, seems in the eye of reason a greater outrage.

Upon this language of Mr. Black, Mr. Carpenter thus tersely comments:

This is the true position, clearly stated. It follows that the Commission has the same cognizance and control of the Central Pacific as of other transportation companies. What the Democratic party and the people rightfully demand of it is not impossible reprisals of lands, bonds, or accumulated surplus earnings, but that these shall be no longer compounded and augmented by unjust discriminations, extortions, forced contracts, or other unlawful exaction. The absolute justice of this demand no one can deny.

Assuming that Mr. Carpenter still has as high an opinion of Judge Black as that which he formerly expressed, and so cordially approved and adopted,

I therefore commend for his perusal some other utterances of that distinguished jurist, made at a different time, but relating to the same subject.

In an argument made by Judge Black before the Senate Judiciary Committee of the State of Pennsylvania, some ten years since, he thus expresses himself upon the subject of State ownership and control of railroad corporations:

It is not proposed by those who think as I do, that any corporation shall lose one atom of its property. A lawful contract between a railroad company and the State is inviolable, and must not be touched by hostile hands, however bad the bargain may have been for the people. Mr. Gowen,* and all others with similar contracts in their hands, are entitled each to his pound of flesh, and if it be "so nominated in the bond," the commonwealth must bare her bosom to all their knives and let them "cut nearest the heart."

But we, the people, have rights of property as well as the corporations, and ours are—or at least they ought to be—as sacred as theirs. Between the great domain which we have conceded to them, and that which still belongs to us, the line is plainly and distinctly marked, and if they cross it for purposes of plunder, they should be driven back under the lash of the law. It is not the intent of the amended Constitution, nor the desire of those who demand its enforcement, to do them the slightest injury. We only ask for that impartial and just protection which the State, as *parens patriæ*, owes to us not less than to them.

In the first place, it will, I think, be admitted by all impartial persons of average intelligence, that the companies are not the owners of the railroads. The notion that they are is as silly as it is pernicious. It is the duty of every commercial, manufacturing, or agricultural State to open thoroughfares of trade and travel through her territory. For that purpose she may take the property of citizens and pay for the work out of her treasury. When it is done, she may make it free for all comers, or she may reimburse the cost by levying a special tax upon those who use it; or she may get the road built and opened by a corporation or an individual, and pay for it by permitting the builders to collect tolls or taxes from those who carry and travel on it. Pennsylvania has tried all these methods with her turnpikes, canals, and railroads. Some have been made at her own cost and thrown open; on others, made by herself, she placed officers to collect a special tax; others have been built for her by contract, in which some natural or artificial persons agreed to do the work for the privilege of appropriating the taxes which she authorized to be levied.

But in all these cases the proprietary right remained in the State, and was held by her in trust for the people.

Those who run the railroads and canals are always public agents. It is impossible to look at them in any other light, or to conceive how a different relation could exist, because a railroad, which is not managed by public agents, cannot be a public highway. The character of these agents and the mode of their appointment, even upon the same work, have differed materially. The Columbia Railroad, and all the canals, were for a time under the management of officers appointed by the Governor or elected by the people, and paid out of the State Treasury. Afterward the duty was devolved by the State upon persons associated together under acts of incorporation, who contracted to perform it upon certain conditions. The Erie and Northeast Railroad was first run for the State by a company; the company was removed from its trust for misbehavior; the Governor then took it and appointed an officer to superintend the work; later the Governor's appointee was displaced, with the consent of the Legislature, and the duty was again confided to a corporation newly chartered.

Pursuing the same general line of thought, Judge Black seemingly used the language of prophecy when he says:

But, on the other hand, the corporations deny that they owe any responsibility to the State, more than individuals engaged in private business. They assert that the management of the railroads being a mere speculation of their own, these thoroughfares of trade and travel must be run for their interest without regard to public right. If they take advantage of their power to oppress the labor and overtax the land of the State; if they crush the industry of one man or place to build up the prosperity of another; if they plunder the rich by extortion, or deepen the distress of the poor by discriminating against them, they justify themselves by showing that all this was in the way of business, that their interest required them to do it, that if they had done otherwise their fortunes would not have been so great as they are; that it was the prudent, proper, and successful method of managing their own affairs. This is their universal answer to all complaints. Their protests against legislative intervention to protect the public always take this shape with more or less distinctness of outline. In whatever language they clothe their argument, it is the same in substance as that with which Demetrius, the silversmith, defended the

* Mr. Gowen was then the President of the Reading Railroad Company, and was in Harrisburg for the purpose of influencing legislation in the interest of the corporation.

sanctity of the temple for which he made shrines. "Sirs, ye know that by this craft we have our wealth."

That railroad corporators and their paid adherents should take this view of the subject is not very surprising, nor does it excite our special wonder to see them supported by the subsidiary rings whom they patronize. But, it is amazing to find that this odious and demoralizing theory has made a strong lodgment in the minds of disinterested, upright, and high placed men. Two members of the Senate Judiciary Committee—I do not say the ablest, because comparisons are odious—but they are both of them among the foremost men of the country for talents and integrity—these gentlemen emphatically dissented from me when I asserted that the management of the railroads was not a matter of business to be conducted like a private enterprise, merely for the profit of the directors or stockholders. A heresy so supported is entitled to serious refutation, however absurd it may seem on its face.

I aver that a man or a corporation appointed to do a public duty must perform it with an eye single to the public interest. If he perverts his authority to purposes of private gain he is guilty of corruption, and all who aid and abet him are accomplices in crime. He defiles himself if he mingles his own business with that intrusted to him by the government, and uses one to promote the other. If a Judge excuses himself for a false decision by saying that he sold his judgment for the highest price he could get, you cover his character with infamy. A ministerial officer, like a Sheriff, for instance, who extorts from a dependent, or even from a convict in his custody, what the law does not allow him to collect, and puts the surplus in his pocket, is a knave upon whom you have no mercy. You send county commissioners to the penitentiary for consulting their own financial advantage to the injury of the general weal. When the officers of a city corporation make a business of running it to enrich themselves at the expense of the public, you can see at a glance that they are the basest of criminals. Why, then, can you not see that the officers of a railway corporation are equally guilty when they pervert the authority with which they are clothed to purposes purely selfish? A railroad corporation is a part of the civil government as much as a city corporation. The officers of the former as much as the latter are agents and trustees of the public, and the public has an interest precisely similar in the fidelity of both. Why, then, should partiality or extortion be condemned as criminal in one if it be tolerated as fair business when practiced by the other? Yet there are virtuous and disinterested statesmen among us who think faithful service ought not to be enforced against the railroad companies, however loudly it may be claimed by the body of the people as their just due, and no matter how distinctly it may be commanded by the Constitution itself.

Again, he says:

Perhaps the most remarkable, certainly the boldest, thing about the discriminations we complain of, is that they are always avowedly made against those who are least able to endure the wrong. A heavy grain dealer in the West, who ships his millions, may get rates ninety per cent below those extorted from a Pennsylvania farmer with only a thousand bushels to carry. Between all rivals of unequal fortune, the railway king is ever strong upon the strong side, and never fails to make his discrimination against the weaker concern whose business is conducted on the smaller scale. In my town of York the demand of some very rich manufacturers for lower rates has been conceded with gratifying promptness; but you might as well plead pity with a wolf as ask the monopoly to relieve a starving laborer by taking the excessive charges off his bread and fuel. Indeed, if the tariff of railway charges be founded in any rule at all, it is this: that all rates shall be high in inverse proportion to the magnitude of the cargo and the distance it is carried, the practical effect of which is to grind the face of the small trader that the great one may increase in fatness.

The only argument they make against the equality of rates commanded in the Constitution, is that they cannot afford it; that they must charge higher for short hauls and light loads, or else their compensation will be less than for the greater service. If this were true, it would be no ground of justification. But, in point of fact, it is wholly untrue. It is not more difficult or costly to carry a hundred tons for fifty shippers than it would be to carry the same goods for one. The expenses incident to the reception and discharge of a cargo may be greater in proportion for short hauls than for long ones, but you can make that all even by allowing them to charge, in addition to mileage, for loading and unloading, whether the haul be short or long. These terminal expenses which they make so much ado about, are nothing as an excuse for the enormous excesses of their local rates, and they know that very well. Their real reason is that they find it easier, safer, and more profitable to cheat a thousand poor men than one who is powerful enough to resist them, or rich enough to bribe them.

The following description, by Judge Black, of the operations of the Pennsylvania Railroad Company, at the City of Harrisburg, forcibly suggests scenes familiar to many residents of California occurring at the City of Sacramento, within a very recent period of time:

When the officers of the Pennsylvania Railroad Company corruptly bought the remission of the tonnage tax, and thereby transferred to their own pockets an incalculable sum justly due to the State, it was business, rich to them and profitable beyond the dreams of avarice, while to the swindled taxpayers it was proportionately disastrous. The nine million steal of later date was a business enterprise which failed because Governor Geary most unexpectedly put his veto upon it. Still more recently the same corporation undertook to get from the treasury of the State four millions of dollars to which it had no decent pretense of a claim. Never was any affair conducted in a more perfectly business-like way. The appointed agents of the corporation came to Harrisburg, when the Legislature was in session, and regularly set up a shop for the purchase of members at prearranged and specified prices. You condemn this piece of business because it was dishonest, but was it more dishonest than that which the same corporation habitually does when it stands on the highway, and by fraud or force extorts from individual citizens a much larger sum in excessive tolls to which its right is no better than to the money it tried to get by bribery?

The functions of railroad corporations are as clearly defined, and ought to be as universally understood, as those of any servant which the State or General Government employs. Without proprietary right in the highways, they are appointed to superintend them for the owners. They are charged with the duty of seeing that every needed facility for the use of these thoroughfares shall be furnished to all citizens, like the justice promised in *Magna Charta*, without sale, denial, or delay. Such services, if faithfully performed, are important and valuable, and the compensation ought to be a full equivalent; accordingly they are authorized to pay themselves by levying upon all who use the road a tax, or toll, or freight sufficient for that purpose.

But this tax must be reasonable, fixed, certain, and uniform, otherwise it is a fraud upon the people which no department of the State Government, nor all of them combined, has power to legalize.

Mr. Carpenter, throughout the entire body of his report, undertakes to depreciate my efforts, and ridicule my endeavor to fix freight rates upon the theory of distance only, because, as he says, that is only one of the many factors which should enter into a fair and just consideration of the question. His guide, mentor, and friend of 1882, held different views upon this subject. Upon that question Judge Black says this:

But that is not all. The limitation of the charges to rates, perfectly and uniformly proportioned to weight and distance, must be apparent to any one who will consider the nature of the contract, the subject-matter of it, and the parties to it. The Commonwealth, reserving the equal proprietary rights of all the people to the use of the highway, agrees to employ a corporation as her agent, to see that the exercise of the right by every citizen is properly facilitated, and never, in any case, impeded, delayed, or hindered. The agent agrees to do this service at rates which, in the aggregate, will be reasonable compensation for all the labor and expense of it. As between the State, who is the employer, and the corporation, which is the employé, the contract is an entire one—a lump bargain—an agreement to do one whole job, which comprehends all the carrying for all the people on that highway at a price for which the only measure furnished by the contract is weight and distance. Whenever, in those acts of incorporation, any mention is made of rates, taxes, or tolls, they are spoken of as proportioned to the use made of the road by him who pays them—so much per ton per mile, whether the miles be many or few, up grade or down, without regard to the number of tons carried at one time, or at different times, for the same shipper.

Let me illustrate a little further. If you make a contract to do a job of excavation at a price per cubic yard which gives you a heavy profit on the whole job, have you a legal right to demand additional pay for particular parts of it, which you allege to be harder than the rest? I do not say what claim you might have upon the liberality of your employer if the bargain, taken altogether, were a losing one; I only ask whether you could, by construction of the contract, charge more for one yard than another?

Upon the question of discriminations, all of which are absolutely prohibited by our Constitution, Judge Black uses this just and forcible language, which is quite as applicable to California now as it was to Pennsylvania at the time it was written:

But even this sinks into insignificance compared with the wrong and evil of their discriminations. Common justice, sound policy, every sense of duty, the whole spirit and letter of the law, require them to give every man equal facilities in the use of the roads, and to charge them at the same rates for the same class of goods, according to weight and distance. There can be no possible doubt about this. Every unprejudiced man, who has sense enough to know his right hand from his left, acknowledges that equality must be the rule of right; and he understands this perfectly well without looking at the Constitu-

tion, where it is solemnly declared to be part of the *lex legum*, the law of laws, and the rule of all rules on the subject. Yet this sacred principle is constantly and steadily violated, trampled under foot, and treated with heartless contempt.

At the slightest glance you will see the enormous injury, direct and consequential, which these discriminations inflict upon the public. A man who invests his capital, or employs his time in mining or manufacturing, can be driven into bankruptcy at any time by a discrimination against him and in favor of his competitors. This is done every day, and all the time, not in a few cases here and there, but systematically and regularly, whenever a carrying monopoly conceives that its own interests can be promoted in that nefarious way; and it will continue to be done until the prohibition of the Constitution is enforced by penal enactment.

The question of "local rates" is the only one with which this Commission has practically to deal. That these local rates are largely in excess of those exacted upon what is known as "through traffic," every shipper in the State perfectly well knows. The attempt has often been made by the advocates of these corporations to demonstrate that the two questions are entirely different; that the low rates upon through traffic furnish no reason for a reduction for the high rates extorted upon local shipments. This sophistical argument is thus met and refuted by the distinguished author last above quoted:

The imperious necessity, however, of enforcing the Constitution, arises out of the deprivations which they commit upon all classes everywhere within the State, in what they call their local rates. You can take the figures known to be true, and demonstrate by the plainest process of simple arithmetic, that their tariff of rates for carrying goods from place to place within the State, is extortionate beyond all reason.

They have not the face to deny that their through rates are high enough to give them all the compensation they can reasonably demand for that part of their service. The trunk lines struggled and fought for that trade against one another with a fierceness which showed that they regarded it as very profitable. Their own competition reduced it for awhile, but they combined and raised their charges high enough to satisfy all of them. It is ridiculous to say that this mutual agreement fixed the rates below a fair standard. That is a sort of error which monopolists never commit. Accepting the almost unanimous testimony of disinterested persons who ought to know whereof they affirm, the belief is fully authorized that they have fixed their through rates unreasonably high; but we will assume that they are only fair. That point being satisfactorily established, it follows, as the day follows the night, that the much higher rates which they charge on local freights are unjust and extortionate, a palpable violation of our rights, a gross offense against the Constitution.

As chief executive officer of this State you are, no doubt, painfully aware of the fact that well meant efforts at reform of railroad abuses are frequently frustrated by the unexplained action of coördinate branches of the Government.

The futile effort recently made in this State, by attempted legislative action, to compel certain railroad corporations to assume their just proportion of the burdens of the Government, by prompt payment of the taxes assessed against them, is something which the tax ridden people of California have cause to remember with shame and humiliation.

It really seems as though "the little finger of monopoly is thicker than the loins of the law."

Upon this subject Judge Black sums up so ably, his words inspire so much hope, and convey so well meant a warning to offending corporations, that I insert them here:

We are often told that in this struggle for honest government against the power of the railroad corporations the just cause has no chance of success. *We do seem to be out on a forlorn hope.* * * *

The influence of our enemies over the Legislature is mysterious, incalculable, and strong enough to make the Constitution a dead letter, in spite of oaths to obey it, and a popular demand, almost universal, to enforce it. There is no other subject upon which the press is so shy as upon this, the most important of all. Afraid to oppose the corrupt corporations, and ashamed to defend them, it sinks into silent neutrality. Prudent politicians always want a smooth road to run on, and the right path here is full of impediments. In

this state of things we seem to be weaker than we really are; for the unbroken heart of the people is on the side of justice, equality, and truth. Monopolists may sneer at our blundering leadership, and the unorganized condition of our common file, but they had better bethink them that, when the worst comes to the worst, our raw militia is numerous enough to overwhelm their regulars, well paid and drilled as they are. They have destroyed the business of hundreds for one that they have favored. For every millionaire they have made ten thousand paupers; and the injured parties lack no gall to make oppression bitter.

I have given these copious extracts from the argument of Judge Black, for several reasons. They fully answer and overthrow the contrary doctrines from other authors, quoted by my associates. Again, Judge Black's argument was addressed to the whole subject of State control of railroad transportation, whilst judicial decisions are usually made only upon one branch of the question; and lastly, these extracts set forth my own views much more forcibly than I could possibly present them myself. I regret that space will not permit my giving this whole argument in the appendix to this report, for it is one which every friend of free government should carefully read and digest, and is not without its value for the perusal of railroad monopolies and their apologists.

A FALSE INNUENDO EXPOSED.

In that portion of the majority report devoted to an explanation of his exhibits under the heading of Exhibit "A," Mr. Carpenter says this "Exhibit shows the number of meetings held by the Commission in 1885, and the members present."

This exhibit, upon examination, shows some five or six meetings held at the "call of the Chair," at which I was not present, but the Chairman fails to explain my absence, and this omission I can readily supply. It is a legal maxim which, perchance, has escaped this gentleman's attention since his devotion to his duties as a Railroad Commissioner, that the *suppressio veri* and the *suggestio falsi* are equally culpable, both in law and in morals.

By the preparation and presentation of this exhibit, Mr. Carpenter has endeavored to create the impression that my official duties have been willfully neglected, and that Mr. Humphreys and himself have been faithful, watchful, and attentive. A more wicked and willful perversion of fact never found place before in a public document. The plain facts are as follows:

On the fifth day of September, 1883, shortly after the organization of the present Board, to accommodate all the Commissioners, and especially Mr. Carpenter, who then lived at Placerville, I introduced a resolution fixing the meeting of this Board on the first and third Fridays of every month. This resolution was unanimously adopted and acted under until the twenty-ninth day of May, A. D. 1885, when Mr. Humphreys, during my absence, introduced a resolution which appears upon the minutes of our Board, as follows: "On motion of Commissioner Humphreys, Order No. 11 was rescinded, and that the Board adjourn to meet on the call of the President. It was so ordered."

Order No. 11 was that introduced by me requiring the Board to meet twice during each month.

It is proper to state in this connection that whilst Order No. 11 was acted upon, I was always present at the times named. Very frequently there would be nothing to come before the Board, and no meeting would be held. Afterwards, as our minutes show, Mr. Humphreys would make the motion to adjourn "at the call of the Chair," which motion would prevail, and

finally upon his motion, the order was abolished altogether, and now our meetings are held altogether "at the call of the Chair." By the Constitution we are required to meet at our office at least once during each month. Under the new rules of procedure, the time of the month is left to the discretion of the Chairman.

The following letter sent to Mr. Carpenter, and received by him as I am informed and believe, showed my anxiety to be present when meetings were called:

SAN FRANCISCO, June 30, 1885.

Hon. G. J. Carpenter:

SIR: Will you kindly notify me a day or two beforehand when you design calling another meeting of the Board, as I am anxious to be present. I make this request, as the regular meetings have been abolished by resolution of the Board.

Yours respectfully,

W. W. FOOTE.

The receipt of this letter was not acknowledged, or its suggestions acted upon. As I am neither a mind reader, or in the confidence of the Chairman, it will be readily seen that my attendance is largely dependent upon the favor of Mr. Carpenter. How far I have been fairly treated by him in the past, or what courtesy to expect at his hands in the future, a perusal of his last report, and its comments upon my action, clearly demonstrates. Since that time our meetings have been held at the call of the Chair, and as the Chairman does not notify me of his intention to call meetings, it is impossible for me to anticipate his will and be present.

To further show the utter shallowness of this pretense upon the part of my associates, I append herewith the official minutes of the meetings held during my absence and referred to in Mr. Carpenter's "Exhibit A."

OFFICE OF THE STATE BOARD OF RAILROAD COMMISSIONERS, }
SAN FRANCISCO, December 2, 1884. }

The Board met, pursuant to adjournment, at 11 o'clock A. M. Present, Commissioners Carpenter, Humphreys, and Foote.

Minutes of the last meeting were read and approved.

Commissioner Foote then proposed a grain, flour, cattle, sheep, and hog tariff, which was taken up and discussed by Richard Gray, General Freight Agent of the Central Pacific Railroad, and the Commissioners, together with five sheets of comparative tables of freight rates on grain and live stock over the Central Pacific Railroad, Atchison, Topeka, and Santa Fe, Union Pacific, and Chicago, Milwaukee, and St. Paul Railroads, furnished by Mr. Gray. The matter was discussed at length, and it was agreed that Mr. Gray would at his earliest convenience procure other needed information for the Commissioners before any action upon the schedule was taken; and the Board, on motion, adjourned to meet on the call of the Chair, when the information was received from Mr. Gray.

G. J. CARPENTER, President.

SAN FRANCISCO, January 5, 1885.

The Board met, on the call of the President, at 10:30 A. M. Present, Commissioners Carpenter and Humphreys.

Reading of the minutes of the last meeting was passed.

The following order, No. 22, was introduced by Commissioner Carpenter, and on motion, was adopted, which reads as follows:

"BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA.

"It is hereby ordered that the foregoing report, together with the index and appendix attached thereto, and also the accompanying printed copies of the Commissioners' schedule of passenger fares and reports of railroad companies to the Commission for the years 1882-1883, be and the same are hereby approved and adopted by this Commission, to be printed in one volume, as its report for the year 1884; and the Secretary of this Commission is hereby directed to attest this order and to file an attested copy thereof in this office, and thereupon immediately deliver to the Governor of the State the report of the Commission, with its contents as aforesaid, with the respectful requisition which is hereby made for three thousand printed copies thereof. Order made by said Commission at its meeting in the City of San Francisco, January 5, 1885."

Bills for the month of December, 1884, were presented, and on motion, allowed. A communication from O. Kennedy, Woodland, California, was read and placed on file for future action. The Board then adjourned to meet at the call of the President.

SAN FRANCISCO, February 17, 1885.

The Board met, on the call of the President, at 2:30 o'clock P. M. Present, Commissioners Carpenter and Humphreys.

Minutes of the last two meetings were read and approved. Bills for the month of January were presented and allowed. The Board, on motion, then adjourned to meet at the call of the President.

SAN FRANCISCO, February 26, 1885.

The Board met, on the call of the President, at 1 o'clock P. M. Present, Commissioners Carpenter and Humphreys.

Minutes of the last meeting were read and approved. The Secretary was directed to write the State Printer and ascertain from him when the reports for 1884 were likely to be delivered at this office. The monthly bills for the month of February were presented and on motion allowed. The Board, on motion, then adjourned to meet on the call of the President.

SAN FRANCISCO, March 2, 1885.

The Board met, on the call of the President, at 11 o'clock A. M. Present, Commissioners Carpenter and Humphreys.

Minutes of the last meeting were read and approved. The following letter was then read by the Secretary, and ordered on file:

"W. R. Andrus, Esq.:

"DEAR SIR: The binder informs me that he will have a lot of those railroad reports ready to ship to you next week. I have already used those that were bound to distribute to the Legislature, having sent to the two houses about two hundred and fifty copies.

(Signed:)

"Yours truly,

"J. J. AYERS."

The Board, on motion, then adjourned to meet on the call of the President.

SAN FRANCISCO, April 1, 1885.

The Board met, on the call of the President, at 1 o'clock P. M. Present, Commissioners Carpenter and Humphreys.

Minutes of the last meeting were read and approved.

A letter from the Board of Railroad Commissioners of South Carolina, was submitted by Commissioner Carpenter, and the Secretary was directed to answer it in accordance with its request. Bills for the month of February were allowed, and the Board adjourned, to meet on the call of the President.

SAN FRANCISCO, May 29, 1885.

The Board met, on the call of the President, at 1 o'clock P. M. Present, Commissioners Carpenter and Humphreys.

Minutes of the last meeting were read and approved.

The resignation of E. A. Girvin, Stenographer of the Board, was presented and read by the Secretary, and, on motion, was accepted. The election of his successor was postponed to some future meeting. Bills for the month of May, 1885, were presented and, on motion, allowed. A communication from the Master Car Builder's Association of New York, was read and ordered on file, with one from the United States Senate Committee on Interstate Commerce, Shelby M. Cullom, Chairman. On motion of Commissioner Humphreys, Order No. 11 was rescinded, and that the Board adjourn to meet on the call of the President. It was so ordered. The Board, on motion, then adjourned.

SAN FRANCISCO, June 9, 1885.

The Board met, on the call of the President, at 10:45 A. M. Present, Commissioners Carpenter and Humphreys.

Minutes of the last meeting were read and approved.

On motion, the Secretary was directed to have printed at the State Printing Office (500) copies of blank forms of reports, and send them to the various railroad companies in this State, to be filled out and returned to this office at their earliest convenience.

The Board, on motion, then adjourned.

SAN FRANCISCO, June 10, 1885.

The Board met, on the call of the President, at 11:45 A. M. Present, Commissioners Carpenter and Humphreys.

Minutes of the last meeting were read and approved.

On motion of Commissioner Carpenter, C. J. Murphy was duly elected Stenographer of this Board; and the Secretary was directed to notify Mr. Murphy of his election.

On motion, the Board then adjourned.

It will be seen at a glance that there was nothing done, or attempted, at these meetings, from which I was absent, further than to allow current bills which might just as well have been allowed by signing the same without a meeting for that purpose.

From the preparation of this "Exhibit A," and its insertion in the majority report, I am forced to conclude that my associates would go to any length to smirch my official conduct, without reference to the fairness or entire truth of the methods by which their ends are to be attained.

Nor is this the only attempt those gentlemen have made to place me in the position of having neglected my official duties.

Under the heading of "A SHAM SCHEDULE," Commissioner Carpenter thus vents his spleen upon me and the schedule of freight rates which I sought to have adopted. He says, referring to this schedule: "*At the subsequent and last meeting in 1884, it [the freight schedule introduced by myself] was passed without further action; and in the absence of Commissioner Foote, during the first six months of 1885, further proceedings upon it were deferred.*" The italics in this extract are my own, but a more willful misstatement never found its way, even by accident, into a public document, than the intimation contained in the language quoted.

Mr. Carpenter knew, when he penned these words, and he knows now, that they were not true. He is perfectly aware of the fact that this freight schedule was not delayed for six months by my absence, and he further knows that I was always ready and willing to vote for the adoption of that schedule from the first moment of its presentation. He also knew why action upon it was delayed. The official records of the Board show the facts, and falsify Mr. Carpenter's statement, and he must have shut his eyes to the record when he penned the lines.

This mode of dealing with facts is, perhaps, what he meant in 1882, by "friendly and honorable concert with my fellow Commissioners." The following brief statement of *actual* facts, fully and fairly presented, will tend to elucidate Mr. Carpenter's methods of dealing with a fellow Commissioner.

On the twentieth day of December, 1884, after a long discussion between Mr. Richard Gray, General Freight Agent of the Central Pacific Railroad Company, and the members of this Commission, at which Mr. Gray presented five tables of freight rates compiled under his direction, and showing the rates upon certain articles in other States, it was agreed that Mr. Gray should furnish certain other information before final action was taken by the Board upon the schedules.

The minutes of that date say this: "The matter was discussed at length, and it was agreed that Mr. Gray would, at his *earliest convenience*, procure the needed information for the Commission, before any action upon the schedule was taken."

In his present report, as before stated, Mr. Carpenter conveys the insinuation that Mr. Gray's "earliest convenience" was, in effect, my negligence.

The next meeting was called by Mr. Carpenter on the fifth day of January, 1885, during my absence in Sacramento upon official business. Mr. Gray had not yet reported. An account of this meeting was thus explained in my last previous report:

On Monday, the fifth day of January, 1885, the majority report was presented to the Board by Mr. Carpenter. At that time I was in Sacramento, but before leaving told Mr. Andrus, the Secretary, that if the report came in or a meeting was called, to tell my associates where I was, and that I would return immediately if notified by telegraph. *Our meetings are now held at the call of the Chair.* On the day before mentioned Mr. Carpenter called a meeting for the purpose of considering and adopting this report, and was informed

by the Secretary of my whereabouts, and my desire to be present. Mr. Humphreys, as I am informed, was at first in favor of sending me the notification requested, and postponing the matter until I could be present, but subsequently changed his mind and joined with his associate in adopting the report during my absence. The majority of the Commission then signed the report and sent it to Sacramento by Secretary Andrus, with instructions to find me and allow me the privilege of signing the same if I desired; the Secretary was then instructed to hand the same to yourself.

Mr. Andrus reached Sacramento Monday night, found me, delivered his message, and handed me the report. I asked him when he designed handing in the report. He replied, the next morning. I then looked at it casually, discovered the bombastic protest it contains against my making a report without the consent of my associates, immediately concluded that I did not desire to even partly father any such production, and told Mr. Andrus he could present the report whenever he chose. It was handed to you on Tuesday, and as you will remember, you kindly allowed me to take and read it. These are the exact facts concerning my connection with this majority report, and my opportunities for examining the same.

In the present report, proceeding in his effort to place the blame for the failure to consider the schedule sooner upon me, Mr. Carpenter thus proceeds: "At the subsequent and last meeting in 1884, it was passed without further action, and in the absence of Commissioner Foote during the first six months of 1885, further proceedings upon it were deferred. On the thirtieth day of July, 1885, all the Commissioners being present, on motion of Commissioner Carpenter, the Central Pacific Railroad Company was notified that the Commission was ready to receive its report touching the matter referred to it on the second day of December, 1884."

By this little piece of self-laudation, your Excellency, and those who should chance to read Mr. Carpenter's report, would naturally believe that it was his consuming desire to adopt some fair freight schedule, which occasioned the matter to be again brought up for action. The minutes, as before quoted, do show that it was upon Mr. Carpenter's motion that Mr. Gray was aroused to action. Fortunately, the official shorthand reporter was present, and took down the proceedings. From his longhand notes of the proceedings of July 30, 1885, I extract the following, which is all that occurred relating to the subject:

MR. FOOTE—That freight order was referred to Mr. Gray three or four months ago, wasn't it? He was to make his report; he has not done it.

THE CHAIR—I move that Mr. Gray be notified that we are ready to receive his report.

MR. FOOTE—Yes.

THE CHAIR—And that, in the meantime, as there is nothing more to do this morning, we adjourn until Tuesday, at 11 o'clock.

MR. FOOTE—I second the motion.

THE CHAIR—The motion is that the company and Mr. Gray be notified that we are ready to receive his report, and will be in session Tuesday, at 11 o'clock.

MR. FOOTE—I suppose notify him personally, because he was here, and said he would like to make some suggestions about.

Motion carried. Adjourned, to meet next Tuesday, at 11 o'clock.

This is every word spoken upon the subject; and the report shows that it was upon my suggestion that the order was brought up. The minutes of the other meetings held, contained herein, show that no effort was made to bring up the freight schedule; and it is also true that I was not notified of the meetings, even when I was within easy reach.

It must be apparent, therefore, to every fair-minded man, that by the publication of this "Exhibit A," showing meetings from which I was absent, and the further statement in the majority report, that action upon the freight schedule was delayed on account of my absence, without mentioning other facts, which were, doubtless, willfully left out, was, and is, a species of *suppressio veri*, as antagonistic to common decency and official comity as it is to the plainest legal principles governing the production and value of evidence.

Shortly after the freight schedule was offered to Mr. Gray, in January, 1885, I met him at his office, and suggested to him the propriety of reporting upon the matter as soon as convenient, which he promised to do. I mention this, not as a reflection upon Mr. Gray (because we could have required him to report at any time), but for the purpose of showing that no delay was occasioned by any action or non-action of my own.

NO SUCH DEMONSTRATION WANTED.

Under the display heading of "Startling Minority Announcements, Annually Made and Repeated," the President of the Board of Railroad Commissioners attempts, by turns, to be both facetious and satirical at my expense. Commenting upon the frequently announced fact that these majority reports are prepared away from our office, and never submitted for my perusal until the very hour of their adoption, Mr. Carpenter fairly revels in his own humor when he says, "in honor of this trial and triumph of struggling virtue in the 'next room,' there should be some suitable public demonstration."

This witty and satirical presiding officer should have paused awhile before alluding to "suitable public demonstrations" in my honor, as a testimonial, for services rendered on this Board.

If, by any chance, this "suitable public demonstration" should be made for me, I trust and believe that it will not be in the same form which greeted and rewarded the services of my associates at Hanford, which would have been more pronounced but for my personal exertions to prevent it, nor yet in that less noisy but more odorous way, which a few weeks later took the form of a hostile "demonstration" with ancient eggs at the offices of the Board in the City of San Francisco.

From such demonstrations as these my course upon this Board has thus far protected me, and I know that my conduct will prevent the possibility of their future occurrence; so far as I am concerned.

Let my associates attend to "demonstrations" in their own honor, in which I do not desire to participate, before they prepare or suggest any of which I am to be the central figure.

I do not wish to be understood as either countenancing or justifying such "demonstrations" as were committed "in honor of" my fellow Commissioners. I merely recall them as a warning to my associates that "people who live in glass houses should not throw stones," and as an illustration that those "who laugh last" generally "laugh best."

MR. CARPENTER GROWS POETICAL, AND DROPS INTO METAPHOR.

Towards the close of the majority report, where Mr. Carpenter is roundly abusing the people of this State for expressing the self-same sentiments which he had used with such good effect as an argument to secure his own election, that gentleman uses this very remarkable language:

They never distinguish between the business sense which foresees and supplies a public demand and the short-sighted stupidity that waits for results and then mouths monopoly as the synonym of success. If all the railroads in the country were reduced to streaks of rust, and all the iron horses that are speeding over them neck and neck were turned out to grass, the most serious loss of the demagogues would be their occupation.

Doubtless the author of this involved and faulty metaphor considers it a very fine piece of writing, and possibly falls into the pleasing delusion

that this "paper pellet of the brain" has given the death blow to the anti-monopoly sentiment of California. He is mistaken.

Aside from the fact that locomotives do not have "necks" but smokestacks and cowcatchers in lieu thereof, a fact which Mr. Carpenter might have discovered by a little "patient investigation," there are other reasons for criticising the correctness of this metaphorical masterpiece. The spectacle of Senator Stanford's locomotives "turned out to grass" and perhaps quietly feeding upon some of the many millions of acres of government land donated to the corporations which the Senator controls, is an imaginative picture never seen before in actual life since Nebuchadnezzar, the Chaldean king, as a punishment for worshipping an image of gold, was "driven from men, and did eat grass as oxen, and his body was wet with the dew of heavens, till his hairs were grown like eagle's feathers, and his nails like bird's claws."

When this peculiar transformation is realized, and the locomotives are "turned out to grass," possibly for the purpose of saving coal and thereby increasing profits, it is to be hoped that either this or some future Commission, will do something towards relieving the people from the exactions of a merciless corporation, which, at present, the "minority" member is powerless to accomplish by his single vote.

PASSENGER FARES.

As you are aware, the Board of Railroad Commissioners, during the first year of its existence, fixed the maximum rates for passenger fares at four and six cents per mile, upon the various lines in this State operated, owned, or controlled by the Central Pacific Railroad Company. This action was taken against my protest, for I thought and still think, that a maximum rate of three cents per mile over the lines indicated would be fair to the public and just to the corporations. My associates, however, thought differently, and as they have since remained of the same mind, no further change has been made in rates for passenger fares, as they existed at the time of the presentation of the last report. Of course you will understand that passenger fares have not been interfered with, or attempted to be controlled by this Board, upon any lines of road other than those operated by the Central Pacific Company.

EFFORTS TO FIX FREIGHT RATES, AND WHAT HAS BEEN ACCOMPLISHED.

As has been explained in former reports, the first effort made to fix rates of freight on the Central Pacific system, was undertaken during the first year of the existence of the present Commission.

About the middle of the year 1883 I proposed a horizontal reduction of twenty per cent upon existing freight rates, which proposition was defeated.

Subsequently Mr. Carpenter proposed and carried through the Board a proposition which was embodied in a resolution of inquiry offered by him, and for which I voted. The following was Mr. Carpenter's proposed reduction:

REDUCTION OF FREIGHT RATES PROPOSED BY G. J. CARPENTER.

<i>First</i> —On grain, including all the cereals, in mixed carload lots to all interior points:	
From San Francisco.....	35 per cent.
From Port Costa.....	35 per cent.
From Stockton.....	35 per cent.
From Sacramento.....	35 per cent.
<i>Second</i> —Flour and millstuffs of all kinds, in sacks and barrels, and mixed carload lots:	
From San Francisco.....	25 per cent.

From Port Costa.....	25 per cent.
From Stockton.....	25 per cent.
From Sacramento.....	25 per cent.

Third—Household goods, furniture, and farm utensils, and live stock, comprising the effects of a family, mixed carload lots, in all directions to all points in this State: thirty-five per cent.

Fourth—Fence wire, nails, spikes, bar iron, flat and round sheet-iron, iron pipe, and horse-shoes and nails, in mixed carload lots, in all directions to all points in this State: twenty per cent.

Fifth—Blacksmiths' coal and table and dairy salt, in carload lots, in all directions and to all points in the State: thirty-five per cent.

Sixth—Grain sacks, bags and bagging, agricultural implements and vehicles, in mixed carload lots, to and from all points in the State: twenty per cent.

For this resolution or reduction I voted, being then under the impression that, although not what it ought to be, it would result in some good. Subsequent investigation has led me to the conclusion that the reductions made were all on paper, and that they were not *bona fide* or material.

In my report for the year 1883, I thus explained the subsequent history of Mr. Carpenter's reductions, and the opinions therein expressed remain the same:

By an order or resolution, adopted by the Board some time before, this proposed reduction was sent to the railroad officers, and they were to accept it within three days, and if accepted the railroad company was to use their own clerical force to prepare the schedules in accordance with it, and send it to the Board for approval. This reduction was accepted by the railroad company, and the work subsequently submitted to our Secretary for approval. As the majority report shows, Mr. Andrus approved the work, and Commissioners Humphreys and Carpenter adopted an order putting the schedules in force. The schedule prepared by the railroad company, to comply with the terms of Mr. Carpenter's "proposed reductions," consists of two hundred and thirteen pages, every page containing twenty columns of figures. This freight schedule is imposing in appearance, but for practical purposes amounts to but little. The "order to show cause," introduced by Mr. Carpenter, on the twenty-fifth day of June, 1883, proposed reductions upon grain from interior points to tide-water. His proposed reductions, upon the basis of which the schedules were prepared, *omits* this important factor. Mr. Carpenter's proposed rates are all upon *carload lots*, "straight" or "mixed." Goods shipped in less quantities than carload lots are not affected by the "proposed reductions," or the schedule, and herein is to be found the utter inefficiency of both.

Another feature of Mr. Carpenter's proposed reductions was upon grain and all cereals in carload lots as well as upon flour and millstuffs in like quantities. These reductions are only in one direction, that is *to* and not *from* the interior points where the articles are produced. Such reductions are only to be compared in practical utility to another of the same kind proposed by Mr. Carpenter, viz.: upon table and dairy salt *in carload lots*, in all directions, upon which there is a reduction of twenty (20) per cent.

Subsequent to this, in the year 1883, Mr. Andrus was making some comparisons of freight rates in this State with those prescribed for the railroads of Illinois by the Commissioners of that State. I directed him to continue the work further, and include other articles than those which he was comparing. Mr. Carpenter claims the credit for this work. Whatever praise there is for the work belongs to the Illinois Commissioners, who formulated the system, and to the Secretary of this Board, who made the comparisons and performed the clerical labor.

This schedule was intended to fix the rates on grain, flour, and millstuffs, cattle, sheep, and hogs and wool. As I stated when it was offered, it was merely an experiment, and intended to give us a starting point from which other needed reductions could be rapidly made. The attempt made by Mr. Carpenter to show that it was my non-action which prevented the Board from acting upon this schedule at once, has been commented upon in another portion of this report.

Accompanying this schedule was a key to the same, prepared by Mr. Andrus, which shows at a glance the general contents of the schedule itself. This key, and the proposed schedule accompany this report, and are marked Exhibits "D," "E."

This schedule has met with Mr. Carpenter's unqualified condemnation. In almost one and the same sentence he claims the credit for it himself, and denounces it as a "sham schedule."

I did not claim for it perfection, or that it was anything more than a point from which we could start to make other reductions. Referring to the schedule in his last report, he lauds the order presented by him which defeated the same, and thus pays his respects to what, in another place he claimed as his own bantling: "But as a pretended schedule it was never more nor less than a transparent sham."

An examination of this schedule will show that it was intended to operate upon a mileage basis, and that in order to allow for the necessary reductions made between a "long" and a "short haul" the scale of charges was a sliding one. For instance, the grain rate for a distance of five miles would be 12 cents per ton per mile; as the distance increased the rate would rapidly diminish. For a distance of one hundred miles the rate would be 2.25 cents per ton per mile. This schedule was only prepared for local rates and for a distance of six hundred miles, which would cover every shipping point in the State, and for this latter distance the rate would be 1.26 cents per ton per mile.

The merit of originality is not claimed for this schedule, neither is it fairly open to the adverse criticisms passed upon it by the majority of this Board. An unprejudiced examination of it will show that it is simple in plan, and does away with many cumbersome sheets which now contain the rates upon the articles named therein. Neither was the schedule complete in itself, for in addition to the rates proposed it likewise contained the present rates charged, which, in some instances, were lower than those contained in the schedule itself. When offered for adoption, however, it was accompanied by an order putting it in force, which cured any seeming inconsistencies, and is self-explanatory. Mr. Carpenter purposely omits comment upon this order because that would have destroyed the force of his own argument.

This order was as follows:

Order No. 23.

OFFICE STATE BOARD OF RAILROAD COMMISSIONERS, SAN FRANCISCO, August 6, 1885.

WHEREAS, An examination and comparison of the freight schedules of the Central Pacific system of railroads demonstrates the fact that unjust discriminations have been and are now being made in certain sections of this State upon certain classes of freight; therefore, be it

Resolved, That the Secretary of this Board be and is hereby instructed to immediately prepare and serve upon the proper officer of said company a schedule of freight rates, in accordance with the schedule here following [see schedule filed December 2, 1884]; provided that where the rates now charged are less than those provided by said schedule, they shall remain as they now are; in all other cases they shall be fixed as provided in said schedules.

At the time it was presented the following language was used by me, as stated in the reporter's notes:

MR. FOOTE—I have a resolution that I wanted to offer with reference to this schedule, but I don't want to put in the schedule until I examine the figures of Mr. Gray here, because I don't want to do anything wrong to the railroad company, and I have listened to your explanation.

This language, addressed to Mr. Gray and the Commission, conclusively shows that I did not desire to force action then. I still had hopes that this schedule might be adopted, not perhaps as presented, but with modifications.

At the same meeting the following occurred:

MR. CARPENTER—I have an order here which I will offer as a substitute. [Reads.]

“BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF CALIFORNIA.

“It is hereby ordered that the tabulated trial sheets, heretofore prepared by the Commission for purposes of comparison, and now under consideration as the proposed basis of freight schedules, be placed on file for reference.

“And pending further proceedings and the hearing of shippers in the premises, it is held and decided:

“*First*—That the cost to the carrier, or the value to the shipper of any railroad service, involves the consideration of other factors besides that of distance.

“*Second*—That the direction of carriage is also to be considered, and that the constitutional prohibition of a greater charge for a short than a longer haul, of the same class of freight in the same direction, means aggregate charge for such distance, and not rate per mile.

“*Third*—That other conditions being substantially the same, the rate per mile for the longer haul should be less than for the shorter included therein.

“*Fourth*—That subject to the foregoing provision of the Constitution, to which the railroad tariffs of this State now conform, the rate of charge on each and all roads should be governed by the class and volume of freight, by the distance and direction of carriage, and by the general nature and vicissitudes of the service rendered.

“*Fifth*—That by express provisions of the Constitution and law creating and governing this Commission, it is distinctly and fully authorized, in the exercise of its own unbiased judgment, to ‘change,’ ‘establish,’ or ‘adopt’ existing rates of charge upon any or all of the railroads of this State, but is nowhere required to raise or reduce existing rates.

“*Sixth*—That every proposition to put them up or down has two sides to be considered, and that the real parties in interest entitled to be heard by themselves or their authorized attorneys, are shippers and carriers.

“*Seventh*—That by reason of the law and the evidence, the finding and decision of this Commission are against uniform rates, based upon any single factor of transportation, and in favor of such differential tariffs of rates as shall conform to the essential and diversified conditions of railroad construction, operation, and extension in this State.

“*Eighth*—Holding, therefore, as the Commission does, that producers who have ample railroad facilities are not to be further favored to the lasting detriment of those who have none, and that the interests of all are to be considered, it finds: from the record of this office that no shipper of grain, wool, live stock, fruit, or other staple of domestic production or commerce has appeared by himself or his authorized agent, to controvert or question any of the numerous statements, returns, or exhibits presented, and filed by railroad companies. That the real parties in interest upon the other side may be heard, pending the further proceedings of this Commission, shippers and producers may supply such oral or written statements and recommendations in the premises as they have hitherto failed to make.”

I move the adoption of that order as a substitute for the resolution offered by Mr. Foote.

MR. FOOTE—Do you think that is a substitute for mine?

THE PRESIDENT—Yes.

MR. FOOTE—Of course, if that is adopted that much of it kills this tariff, don't it?

THE PRESIDENT—No; that allows them to do what they never have done.

MR. FOOTE—Everybody knows anybody has a right to come here, but they don't come. The reason they don't come is, that they don't propose to come and make any controversy with the railroad company.

THE PRESIDENT—They need not make any controversy, but can come and state facts.

MR. FOOTE—Forty of them told me that if they come and make statements the railroad would cinch them; and I told them it couldn't be done, and we would give them protection; and they said they wouldn't get it directly, but indirectly—as, for instance, when they wanted cars they couldn't get them.

THE PRESIDENT—This resolution is simply to put this matter on file, and then it lays down the principles upon which all tariffs are to be formulated, regulating freights; and I move its adoption.

MR. HUMPHREYS—I second the motion.

THE PRESIDENT—Mr. Secretary, call the roll.

THE SECRETARY—Mr. Humphreys.

MR. HUMPHREYS—Aye.

THE SECRETARY—Mr. Foote.

MR. FOOTE—No.

THE SECRETARY—Mr. Carpenter.

MR. CARPENTER—Aye.

THE SECRETARY—Two ayes and one no.

MR. FOOTE—I want to understand the effect of it. If I understand the resolution that the Board has just adopted, it is useless for me to go through the freight tariff. I think that is the effect of it—that it is to kill this freight schedule.

THE PRESIDENT—No; the effect of it is not to formulate a tariff based on distance alone.

MR. FOOTE—What I want to know is, the effect of it. You wouldn't adopt a freight tariff based on distance alone?

THE PRESIDENT—No, sir. We should take into consideration these things, such as volume and direction. I have left out one very important element, and that is competition; and that is a mistake.

MR. FOOTE—You had better amend it.

THE PRESIDENT—It is not necessary.

From Mr. Carpenter's own confession it seems that even his principles of regulation were fatally defective, and omitted one important factor: that of competition.

The effect of Mr. Carpenter's substitute was to defeat the schedule offered, and to lay down a set of rules for the government of the Board in the preparation of future schedules.

The practical effect of the action of the Board on this matter is to finally defeat all action upon the subject, unless perfection is secured in the first instance—a thing which is manifestly impossible.

This schedule and order was offered and voted for by me in perfect good faith. I believe the reductions proposed should be made, and many others beside. This view is in part sustained by the figures furnished me by Col. Crocker. By that showing the operating expenses of his roads have been reduced at least ten per cent. Isn't it reasonable that freights and fares should be reduced at least in the same proportion?

The tabulated statements furnished by Mr. Gray, showing the high rates prevailing on some of the eastern roads, are not conclusive evidence to my mind that prevailing rates here are low enough. Of course Mr. Gray, as an able and trusted employé of the Central Pacific Railroad Company, picked out the roads for comparison which would make the best showing for his company; and, in addition, the rates from which he deduces his comparisons may be exorbitant.

The fact that certain eastern roads are allowed to charge exorbitant rates, largely due to the "pooling of rates," is no good reason why the California transportation companies should be allowed to pursue the same practices.

As was shown in a former report the average rate per ton per mile in California, was nearly double that prevailing in the Eastern, Western, and some of the Southern States.

An intelligent farmer living in the northern part of this State, who is now, and has been for many years, a large shipper of grain, recently stated to me as a fact that the rates exacted by the railroad company for the carriage of grain, is about equal to the fair rental value of the land upon which the grain is produced. This state of affairs exists in many portions of the State which are remote from market. The logical effect is to make the transportation companies equal partners with large and small land owners, if, indeed, it does not put them upon the same desirable footing with every other producer in the State.

Such facts as these are more powerful arguments in favor of reductions than any array of figures, which, skillfully manipulated, can be made to conceal rather than disclose facts, upon which intelligent action is to be taken.

Although the majority of this Board are loud in their denunciation of any effort upon my part to fix freight rates upon a mileage basis, and a scale graduated according to distance, yet, upon another occasion, they

practically acted upon that idea. In the schedule of passenger fares adopted by them they fixed upon a mileage basis of four and six cents, and an unvarying scale, with no difference between a long and a short haul.

Consistency is a jewel which even the majority of this Board do not seem to possess.

FREIGHT CHARGES AT PORT COSTA.

As an evidence of the fact that the railroad companies are not particularly anxious to lower freight rates, as is confidently claimed in the majority report, it will only be necessary to cite a portion of the evidence given by Mr. Gray before the Commission on the sixth day of August, A. D. 1885. The following questions were propounded to Mr. Gray and answered by him:

By Mr. Foote—There is another thing here which I wish to ask you about. I notice that you have a new arrangement about—or at least I have been informed so, and see it in the papers—that is, about the charges for the unloading of wheat at the terminal points, say Port Costa. Is there not a new regulation for it?

A.—There is very recently.

Q.—What is that?

A.—Simply that at Port Costa we are compelling them to unload cargoes.

Q.—Was that done before?

A.—Some time previous to that, when we first started at Port Costa, or got fairly started, and when the grain came in the busy season in large quantities, the company found it was cheaper to unload than have the cars standing around waiting for the shippers to unload. Objection was made to that by the Stockton people. They said it was discrimination because they unloaded their own cars, so we made the rule.

Q.—The company charged a certain rate from Fresno or any other place upon the road, and that included the unloading, didn't it?

A.—It did under certain circumstances.

Q.—Now the company has made a rule that the shipper pays for the unloading?

A.—Yes, sir; or if the company does it, he pays for it.

Q.—What is the price?

A.—I think it is eight cents a ton.

THE PRESIDENT—That is in the warehouse?

A.—Yes, sir; that is in the warehouse.

Mr. Foote—In fact, that is a raise in the freight rates of eighty cents a carload?

A.—That is if you assume it as a raise.

Mr. Foote—I understand you charged a rate from one point to another, and that freight rate included the unloading of the goods, or the shippers had to unload it themselves, and now you are charging eight cents a ton more?

A.—Our rule has been always, and is yet, that these grain rates are subject to the loading and unloading by the shippers. At one time we found it more economical to unload them ourselves, but now we insist that the shipper unload, or if the company does it, to pay for it.

Q.—As a matter of fact, I suppose, your facilities at these points, it is cheaper for the shipper to pay the eight cents than do it himself; you can unload a car for eighty cents, and it would cost an individual who didn't have a great many cars, more?

A.—It would cost me or you probably five dollars.

Q.—Prior to that time, these unloading charges were included in the freight charges, were they not?

A.—We don't admit that they were included in the freight charges; the fact is just as I have stated. For economical reasons we unloaded them; but since, we have changed.

Mr. Foote—Since the adoption of this new rule, there is a charge of eighty cents more per car. It is useless for us to split hairs upon the question. It is no difference to the man who pays the rate.

A.—You assume that we have raised the rate.

Mr. Foote—No, sir; but you admit that you are charging eighty cents more a car.

Mr. Gray—You assume that we have raised the rate.

Mr. Foote—No; I don't say that; your rates are the same as ever, but in addition you charge the shipper eighty cents a car more than he was charged, and he pays that when he pays his freight.

THE WITNESS—The freight rate is unchanged; it is a matter of economy in the handling of the grain. Our rule is for the shipper to unload it.

Mr. HUMPHREYS—It is a saving to the shipper to have you unload it?

A.—Yes, sir.

Mr. Foote—Ain't it a fact that the freight rates are the same now as before you charged this additional eighty cents?

A.—Yes, sir.

Q.—Isn't it an additional eighty cents a carload for every shipper, more than he had to pay before you had that rule in vogue?

A.—Yes, sir; there is no doubt about that.

MR. FOOTE—That is what I supposed.

THE PRESIDENT—What facilities have you for unloading, that any shipper wouldn't have?

A.—Having regular gangs of men, and large numbers.

Q.—And having them always there?

A.—And having them always there, and having a large area to work them over. We could work them at the Nevada warehouse, but I believe they have their own, and we can work them at McNear's, or at Starr's. The large shippers charter vessels and send men down the country to buy grain.

Q.—They do all the shipping, don't they?

A.—Yes, sir. I don't think there is a producer of grain that ships it himself.

MR. FOOTE—It all comes back to the proposition that when the buyer of the wheat has to pay eighty cents more per carload it comes out of the producer, don't it? It comes out of the producer in the end, don't it?

THE PRESIDENT—That is a conclusion that any man can draw.

MR. FOOTE—Mr. McNear or the Nevada Bank Company is not going down in the country to pay this eighty cents without charging it to somebody.

MR. HUMPHREYS—The same principle would apply to the men that they have to employ: they would have to employ a gang of men to dispatch this wheat. If it costs more their profits would be less.

THE PRESIDENT—Do not these men avail themselves of this privilege of unloading?

A.—Yes, sir.

MR. FOOTE—How long has this practice of the company's unloading prevailed?

A.—I don't know.

Q.—Was it understood by the shippers?

A.—The shippers of the grain understood it.

Q.—The receivers of the grain understood it, and they didn't pay for it?

A.—I don't think anybody else throughout the State knew anything about it. I don't think the farmers knew anything about it.

Mr. Gray is a fair man, and my personal relations with him have been of the most friendly character, yet it took three or four pages of testimony to get a straight answer to a plain question. Mr. Gray's claim, on behalf of the company which he represents, is that this additional charge of eighty cents per carload, which somebody has to pay now, and which eventually, of course, comes out of the producer, is not a raise in *freight rates*, but simply a right which the railroad company exercises of collecting tolls for work which they formerly did gratuitously, for their own convenience. This is technically correct, and, from the evidence elicited by the questions propounded by my associates, seems to be the view they take of the matter. Mr. Gray, also, justifies this practical raise in freight rates to Port Costa, because the people of Stockton complained of it as a discrimination against them. This reasoning is fallacious. Such a discrimination could have been easily rectified by granting all other shippers the same privilege, but this mode of remedying it never seems to have suggested itself to the representative of the Central Pacific Railroad Company. This addition of eighty cents per carload would amount, in the aggregate, to many thousand dollars during the transportation of a year's wheat crop, and it is alluded to herein merely for the purpose of showing by what simple means a great corporation can impose additional burdens upon the great body of their patrons with an apparent show of fairness, and without rendering them liable to the prohibitions of the Constitution and the laws.

THE ATLANTIC AND PACIFIC RAILROAD.

This corporation was chartered by an Act of Congress, approved July 27, 1866. Until the twentieth day of August, 1884, it neither operated or controlled any line of road within the territorial limits of the State of California. Upon the day last named the Atlantic and Pacific Company entered into a contract with the Southern Pacific Railway Company, the exact terms of which are set out in the letter of Mr. J. A. Williamson, the general solicitor for the first named corporation.

By the terms of this contract between the two companies, the Atlantic and Pacific Company obtained control of and since that date has operated the line of road between "Mojave," in this State, and a point called the "Needles," on the Colorado River. The distance between the two points is 242⁴⁷/₁₀₀ miles, and the line of road is wholly within the limits (and, as I believe, under the jurisdiction) of the State of California.

By a general order, adopted by the present Board of Railroad Commissioners during the first year of its existence, the Secretary of the Board was directed to prepare blank forms, to be sent to and filled in by the various railroad corporations owning or operating lines of railroad in the State of California, and thereafter these reports were to be returned to the Secretary of this Board.

Pursuing these general instructions, the Secretary, Mr. Andrus, on the nineteenth day of August, 1885, sent to the Atlantic and Pacific Company, at Albuquerque, New Mexico, sets of blank forms, to be used and returned as above indicated. (Prior to this time the reports for this division of road had been made in the general report of the Southern Pacific Railroad Company.)

To this request an answer was returned, denying our jurisdiction, upon certain specified grounds, all of them untenable. This letter appears in full in the majority report, and it is needless to reprint it here.

It is a square denial, upon the part of the Atlantic and Pacific Company, of the right of the State of California to regulate or interfere with the affairs of the Atlantic and Pacific Company in any way whatever. Besides, it is in direct opposition to the position taken by the same company upon another occasion, when a question arose as to the right of the California Board of Railroad Commissioners to regulate rates of fare for passengers over the same division, after it came into possession of the Atlantic and Pacific Company.

On the second day of August, A. D. 1883, this Board adopted and served upon the various companies to be affected thereby, a schedule of passenger fares, and between Mojave and The Needles the rate was fixed at six cents per mile, where it had formerly been more than eight cents per mile over the same line of road.

The Southern Pacific Railroad Company, which then operated this line of road, put this schedule in force shortly thereafter.

Late in the Fall of the year 1884, some time in the month of October, Senator Del Valle and Assistant Adjutant-General Tobin bought tickets from Mojave to Daggett, a station on this line of road, in the County of San Bernardino. The line had then passed into the possession of the Atlantic and Pacific Company, and these gentlemen were compelled to pay at the old rate, more than six cents a mile. They reported the fact to me, individually, and at my suggestion sent a written communication to the Board, which was published in the San Francisco newspapers. Certain correspondence followed, and the result was that the rate fixed by the Board was adopted by the Atlantic and Pacific Company without protest.

It seems, to the ordinary mind, that a change of counselors has wrought a change in opinion as to the powers of this Board over the Atlantic and Pacific Company. It is to be presumed that the Atlantic and Pacific Company would claim that in the matter of passenger fares, it merely acquiesced, without conceding the legal authority of the Board to regulate its affairs within our State territorial limits.

But in my view of the law, the position taken by Mr. J. A. Williamson is untenable upon any theory not inconsistent with the right of a State to

regulate its own internal affairs. A long and unbroken line of judicial precedents, both State and Federal, likewise fails to sustain the reasons which he sets out as a justification for the failure to comply with the request of the Board to make a report.

The doctrine that a so called Federal corporation conducting business in this State, is not bound by our local Constitution or laws, is not a new one. It was first promulgated in the year 1872, by the attorneys for the Central Pacific Railroad Company, in an effort made by that company to evade the payment of taxes assessed against it in the County of Placer, and the argument for the company in that case was very similar to the one made by Mr. Williamson in his letter to the Board. It is true that the Central Pacific Railroad Company was, at the time of this action, a corporation, organized under our general incorporation laws, and that the Atlantic and Pacific Company is a foreign corporation, but this fact, in view of the reasoning of the case alluded to, does not alter the status of the two companies so far as the right of the State to regulate their local lines within its territorial limits is concerned. In a former report upon this subject, the following language was used, which is a sufficient reply to what I cannot but deem the fallacious argument of Mr. Williamson:

FEDERAL CORPORATIONS.

But certain railroad corporations, notably those which have received Federal aid in lands or bonds, have always combated the doctrine so frequently announced. They claim to be Federal corporations, although organized under State laws. The principle contended for seeming to be that the more aid received from the General Government, the less amenable are they to the jurisdiction of the States. The Central Pacific Railroad Company, a California corporation, deriving all of its powers to transact business as an artificial person from the people of this State, has never agreed to the doctrine of State control, and through its principal officers, even now, denies the power of this Board, or the representatives of the people in any other capacity, to regulate its affairs to any extent whatever; even denying the State's power to collect taxes. Judge Sanderson, the chief counselor of the Central Pacific Railroad Company, a lawyer of eminent ability, at one time a member of the Supreme Court, where he discharged his duties with eminent fairness and great ability, is, perhaps, the originator of the doctrine in this State, that "Federal corporations," so called, are above and beyond the control of State authority. So long ago as the year 1872, the Central Pacific Railroad Company declined to pay the taxes assessed against it in the County of Placer. Suit was brought in the District Court of the proper county for the amount delinquent, and, after trial, judgment was rendered against the company. The case was appealed to the Supreme Court, and the briefs on file are able and exhaustive. Upon the part of the defendant it was contended, in the broadest way, that the Central Pacific Railroad Company, though organized under State laws, yet by accepting the terms of the various Acts of Congress concerning Pacific railroads, became a "Federal corporation," and, for this reason, was in nowise subject to State laws, and was exempt from the payment of taxes for State and county purposes. This doctrine was thoroughly overturned by our Supreme Court; the opinion in this case by Judge Wallace, concurred in by the whole Court, declaring that the Central Pacific Railroad was not a Federal corporation, and must pay its taxes as other corporations or individuals.

This case is reported in the 43 Cal. 398, and is entitled "*The People of the State of California vs. The Central Pacific Railroad Company of California, and that certain real estate, situated in the County of Placer, and described as ninety-two and one fourth miles of railroad and telegraph line, situate in the County of Placer, and State of California, and known as the Central Pacific Railroad and Telegraph Line.*"

A writ of error was refused by our Supreme Court, but granted by telegraph from Washington, as I am informed by Judge Wallace, and the case has since been dismissed, presumably for the reason that the defendant had abandoned the doctrine contended for, or else feared an affirmation of the judgment of our State Court. This was, of course, before our present Constitution, since which time evasion of taxes has been sought, thus far successfully, by reason of the alleged protecting provisions of the Fourteenth Amendment, at one time thought to be a portion of the reconstruction system of Congress; but, if the new doctrine is to prevail, this was an error, and the prime object of that amendment was to prevent hostile legislation against delinquent corporations.

If the reasoning of Mr. Williamson is correct, and he states the law as it is, it would be a thing of easy accomplishment for every railroad in the United States to evade State control by the easiest of devices. All of our

local incorporations could consolidate with some one or the other of these "Federal corporations," and by this means operate their lines within this State in complete defiance of any laws which she has, or might make, upon the subject. A doctrine which shows how easily the power of a State may be neutralized or destroyed, seems to me to be refuted by its mere statement.

As the majority report states, a reply was prepared to Mr. Williamson's letter, by Commissioner Carpenter, and presented to the Board for adoption. As this reply states the law as I understand it to be, I signed the same, and voted to have it forwarded to Mr. Williamson.

Since the preparation of Mr. Carpenter's letter, a series of cases have been decided by the Supreme Court of the United States, wherein the various railroad corporations operating lines of road in the State of Mississippi sought to have the Board of Commissions declared an unconstitutional body. These pretensions were sustained by the United States Circuit Court for that District, whereupon the State took an appeal. The Supreme Court reverses the decision of the lower Court, and in the newspaper account of the opinion (which has not yet been otherwise published), it seems that one of the very doctrines overthrown by the Supreme Court decision, is the one so strenuously contended for by Mr. Williamson in his legal letter to our Board.

THE SOUTHERN PACIFIC COMPANY.

This is the new incorporation under whose management most of the railroad lines in California, and many elsewhere, are now operated.

The public have as yet little information concerning this company, and perhaps the following will be of interest:

On the twenty-first day of this month I visited the offices of Colonel C. F. Crocker, at Fourth and Townsend Streets, in this city, and through the courtesy of that gentleman was enabled to get the following data. As is well known, the through line between San Francisco and New Orleans and Galveston, as well as the branch from Mojave to the Needles, was the original conception of the railroad managers in this State, who built, owned, and controlled the Southern Pacific of California.

Under the laws of Arizona, New Mexico, Texas, Louisiana, and California, as stated by Colonel Crocker, it became necessary to incorporate the various companies in the local jurisdiction of the States and Territories through which they ran, which accounts for the various incorporations formerly known as the "Southern Pacific of California," "Southern Pacific of Arizona," "Southern Pacific of New Mexico," etc.

When these various lines had been completed to El Paso, perhaps before, owing to the opposition of Jay Gould and his Texas Pacific enterprise, it became necessary for the California railroad people to make some alliance with other railroad lines in Texas and Louisiana, which would give them a through line to the eastern seaboard, notwithstanding the threatening aspect of the Gould combination. To this end an alliance was formed with the partially completed line then known as the Galveston, Harrisburg, and San Antonio road. This property was secured by the Southern Pacific people, whereupon they immediately commenced building their connecting links, eastward from San Antonio to Galveston, and westward from San Antonio to El Paso. The completion of these connecting lines gave the California people a through line to Galveston. At about the same time, whilst this work was under way, the California people purchased two short lines

known as the Texas and New Orleans road, and the Louisiana Western road. The Texas and New Orleans road ran from Houston to Orange, and the Louisiana Western from Orange to Lafayette. Finally the California people purchased what is known as the Morgan line, a railroad running from Lafayette to Algiers, opposite the City of New Orleans, together with the ferry line and ocean steamers.

This completed the through route from the Pacific to the Atlantic, but whilst really under the control of the California people, it consisted of several incorporations, each requiring separate officers, and thereby entailing much greater expense in operating than if under one management and control. There was only a small outstanding interest in any of these old incorporations other than that held by the California people, and acquired by them as hereinbefore indicated.

Although nominally different corporations, they were all either owned or controlled by the parties who had acquired them as above stated.

As stated by Colonel Crocker, the continuance of these various roads as separate systems entailed unnecessary burdens and expenses, which he thought could be avoided by having them all under one management and control. The owners therefore took advantage of the laws of Kentucky, which permitted the sort of incorporation desired. The object of this incorporation, as stated by Colonel Crocker, was purely an economical one, to save expenses, and no ulterior purpose was had in view.

To this end a charter for the Southern Pacific Company was obtained from the Legislature of Kentucky.

Through the kindness of Colonel Crocker I have been enabled to obtain a copy of this legislative charter. It accompanies this report as an exhibit in the appendix, and is marked "A."

Colonel Crocker also states that subsequently the California railroad people obtained the rights granted under this charter for use in perfecting their intended consolidation of the various lines.

Of course, Colonel Crocker and his associates owned the majority of the stock in the companies which it was proposed to consolidate by virtue of the rights conferred by the Kentucky charter of the Southern Pacific Company—and which have been leased by that corporation.

Having obtained the rights granted the incorporators of the Southern Pacific Company (the exact time of this transaction Colonel Crocker was unable to furnish), the California railroad people determined to bring their transcontinental system under one general management, and to this end leases were executed to the Southern Pacific Company as lessee by the following named corporations, as lessors: The Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the United States and the State of California; the Southern Pacific Railroad Company of Arizona; the Southern Pacific Railroad Company of New Mexico; the Galveston, Harrisburg, and San Antonio Railway Company, which was a Texas incorporation; the Texas and New Orleans Railway Company of 1874, likewise incorporated in Texas; the Louisiana and Western Railway Company; a Louisiana corporation; Morgan's Louisiana and Texas Railroad and Steamship Company, and the Mexican International Railroad Company, which is stated in the lease to be a Connecticut corporation. These leases will be found in the appendix, marked Exhibits "B" and "C."

The following are the names of the present Directors of the Southern Pacific Company:

Leland Stanford, C. P. Huntington, Charles Crocker, W. E. Brown, Timothy Hopkins, F. S. Douty, Ariel Lathrop, S. F. Gage, E. H. Miller, Jr., W. V. Huntington, Charles F. Crocker.

The officers are:

Leland Stanford, President; C. P. Huntington, First Vice-President; Charles Crocker, Second Vice-President; Charles F. Crocker, Third Vice-President; Timothy Hopkins, Treasurer; E. H. Miller, Jr., Secretary and Controller.

These gentlemen, I assume, are the legal successors of those named in the charter granted by the Legislature of Kentucky. It will be observed, by an examination of that document, that no one of those named in that charter is now connected with the company, either as an officer or Director.

I am also informed, by Colonel Crocker, that the principal place of business of the company is at San Francisco, and that "the office in Kentucky, which is required by the charter, is at Louisville."

As an evidence of the fact that this consolidation of various interests under one general management has produced the desired reductions, Mr. E. H. Miller, Jr., furnished me the following figures from his books, showing that a very great saving has been effected, which it is stated is attributable almost entirely to the operation of the various lines by one management, instead of having a different set of officers for each separate road:

	1884.	1885.	Decrease.
Gross earnings from April to November.....	\$16,173,502 94	\$13,894,533 51	\$2,278,969 43
Operating expenses from April to November.....	7,850,866 72	5,664,349 70	2,186,517 02
Net earnings from April to November.....	\$8,322,636 22	\$8,230,183 81	\$92,452 41

These figures certainly substantiate the claim made for them, that the operation of the whole system under one general management has resulted in a very large saving in operating expenses.

The following tabulated statement, likewise furnished me by Colonel Crocker, is a showing of taxes paid:

Table showing Amount of Taxes Paid by Southern Pacific Company, Pacific System, on its Leased Lines, for the Fiscal Year 1885-6.

COMPANY.	Taxes Paid.
Central Pacific Railroad Company.....	\$261,855 45
Southern Pacific Railroad Company.....	137,818 03
Berkeley Branch Railroad Company.....	513 30
Los Angeles and San Diego Railroad Company.....	3,209 32
Los Angeles and Independence Railroad Company.....	2,462 47
Amador Branch Railroad Company.....	2,621 02
Stockton and Copperopolis Railroad Company.....	4,922 96
California Pacific Railroad Company.....	1,290 94
Monterey Railroad Company.....	2,562 40
Pajaro and Santa Cruz Railroad Company.....	2,975 85
Total paid	\$425,292 64

It will be understood that what is known as the "Pacific System" includes all lines of road operated by the Southern Pacific Company, west of El Paso, Texas, inclusive of the Central Pacific to Ogden, Utah.

In connection with this tabulated statement, it should also be borne in mind that the taxes paid are those assessed by local assessors, and have no connection with those assessments made by the State Board of Equalization of this State, and which are now in litigation. A further fact in connection with these figures should likewise be remembered, viz.: these taxes were paid in the States of California and Nevada, and the Territories of Utah and Arizona, and, as I gather from an itemized statement in pencil accompanying the aggregate above presented, were paid in the following places and proportions:

Paid in Nevada	\$156,764 53
Paid in Territory of Utah	19,424 45
Paid in Territory of Arizona	99,073 54
Total amount paid outside of California, as above	\$275,262 52
Total amount paid, as per exhibit	\$425,292 64
Leaving amount paid, as per above statement, in this State	150,030 12

Col. Crocker furnished me these figures as an evidence of the fact that the Southern Pacific Company did not lease these lines for the purpose of evading the payment of taxes in this State or elsewhere by reason of being a foreign corporation, and as he also stated they were paid pursuant to the eighth clause of the lease, which reads as follows: "In consideration of the leases aforesaid, the Southern Pacific Company agrees to, and with the other corporations, parties hereto, that it will *pay all taxes legally assessed against or levied thereon.*"

As a further evidence of good faith, and absence of "ulterior motive," in operating these various lines under a Kentucky charter, Col. Crocker also gave me a long list of suits commenced against these various leased corporations since they came under control of the Southern Pacific Company, and he states that in no instance have the attorneys pleaded the technical defense of misjoinder of parties. He further stated that such a course would be continued in the future, and he desired to be particularly understood that, the operation of these various lines of road under a foreign charter was never intended, and would never be used, as a means of evading the jurisdiction of the State Courts of California.

Referring to the bonded indebtedness of the leased roads, the Southern Pacific Company, by the terms of the lease, entered into this covenant: "That as to such bonded indebtedness it [the Southern Pacific Company] will pay off and discharge at maturity the interest upon the same, and will, upon demand of either of said railroad companies, guarantee in such form as such company may require, the payment of the principal and interest thereof." Concerning this matter Colonel Crocker informs me that the provisions of this clause of the lease have been carried out so far as "interest" is concerned, and that in every case the "guarantee" as to "principal" has been demanded and satisfactorily given.

Thus far I have given, as faithfully as I could reproduce them, the views entertained by the railroad managers in this State regarding this new consolidation.

POSSIBLE RESULTS OF THIS NEW SYSTEM.

With the limited opportunity offered me of examining the possible results of this new combination, any extended comments would be valueless; but an examination of this Charter and the Leases, suggest some thoughts to even the most casual inquirer.

The lease executed on the tenth day of February, 1885, is signed by W.

E. Brown as President, and H. C. Nash Secretary of the "Southern Pacific Company." As this date is something less than a year from the granting of the charter (it was approved by the Governor of Kentucky March 17, 1884), it would seem that the California railroad people succeeded to the rights of the original grantees very shortly after they had been obtained. The present officers of the company are hereinbefore given.

The first section of the Act granting this charter to the "Southern Pacific Company," after granting full and complete powers to the company by name, contains this rather curious limitation: "*Provided, however, that said corporation shall not have the power to make joint stock with, lease, own, or operate, any railroad within the State of Kentucky.*" The object of this limitation is not perceptible to the ordinary mind, unless upon the somewhat illiberal theory that the commonwealth of Kentucky is quite willing to grant extraordinary powers to corporations which are to control the internal commerce of other States, provided her own territorial limits are protected from their exactions and influences.

Another noticeable feature about this charter is the provision for increasing the capital stock without limit; and that clause also which does away with the personal liability of the stockholders beyond the amount of their stock, which, as I understand the subject, is in direct conflict with our Constitution and laws upon the same subject.

That feature of the charter which permits the corporation to keep its offices outside the local jurisdiction is also somewhat peculiar.

The leases taken by the "Southern Pacific Company" have likewise curious provisions.

The aggregate rental to be paid for all of the lines leased by the Southern Pacific Company (exclusive of the Central Pacific and its leased lines) is to be ninety-three and one twelfth per cent of the net profits, with a subsequent description in the lease, of what the term "net profits" is intended to mean. As all the expenses are to be paid before any net profits can be earned, it is a matter of conjecture as to what becomes of the other six and eleven twelfths per cent of net earnings, unless it goes into the private pockets of the individuals who are devoting their time to developing the possibilities, for good or evil, of the Southern Pacific Company.

Arthur T. Hadley, Esq., Commissioner of Labor Statistics for the State of Connecticut, and Instructor in Political Science in Yale College, has recently published a very entertaining work upon the subject of railroad transportation, in which he undertakes to give the arguments upon both sides of this much discussed question, as well as some valuable general deductions of his own. Under the heading of "Consolidation," Mr. Hadley has this to say:

1. *Consolidation.*—The early railroad charters were for short independent lines. In England they average only about fifteen miles in length. In the year 1847, there were five thousand miles of railroad open, owned by several hundred different companies. Twenty-five years later there were thirteen thousand miles, virtually the whole of which was in the hands of twelve different companies. In France, the number of independent systems was reduced from thirty-three, in 1847, to eleven in 1852, and six in 1869. If we follow back the history of almost any railroad in the United States, we find the same tendency illustrated. The line of the New York Central, between the Hudson and Lake Erie, alone represents the union of what was originally sixteen different companies. The economic laws which govern this movement will form a subject of subsequent discussion. Railroad consolidation has always been regarded by the public with a kind of vague fear. As long as it was a mere union of connecting lines into one through route, the advantages to the public in speed, accuracy, and good organization have been so obvious as to silence the fear of corporate power. When it was a case of the union of competing lines, the advantages to the public have been less obvious, the dangers apparently greater, and the opposition always louder and sometimes more effective.

Discussing the question of adjusting "through rates" upon a mileage basis only (a system which Mr. Hadley does not think fair), the author thus speaks of that subject and others closely allied with it:

The actual effect of this change was a general reduction of rates (at almost every point), combined with vastly increased efficiency on the part of the railroad system. Unfortunately its action has been unequal, producing frequent instances of hardship and abuse. These abuses have been sometimes so flagrant as to call forth serious attempts to return to the old system of tolls. The system of making rates to develop business, or of "charging what the traffic will bear," rightly applied, has been the means—and we shall find it to be the only possible means—of securing efficient service and low rates. It has been so abused and misunderstood by all parties as to have become a synonym for unchecked extortion—a pretext for charging what the traffic will *not* bear.

Mr. Hadley, in another part of his work, commenting upon the tendency of all corporations to oppress the weaker, and favor the stronger members of the community, pursues the same line of thought which seemed to have been the groundwork of Judge Black's opinions, as given in another portion of this report. He says:

The small capitalist and independent workman are crushed out. The distinction of employers and employed becomes more sharply drawn. The workman can no longer confidently hope to become the employer of his own labor. It is these tendencies which give force to the agitation in favor of socialism. Unfortunately the effect of the policy of most of our railroads is to intensify these tendencies. They do not merely favor cities; they favor individual producers. The largest or most unscrupulous concern gets the best rates. Differences are made which are sufficient to cripple all smaller competitors, and sooner or later drive them to the wall and concentrate industry in a few hands.

What makes things seem worse is that in this matter, as in speculation, the railroad is not merely an instrument fostering monopoly; it is itself an example of the tendency toward monopoly. Railroad consolidation has put the control of the country's business into the hands of a few large corporations. The owners may be numerous, the actual managers are few. It is useless to strive against this tendency. Consolidation lowers rates and makes enlightened economy possible. It usually lessens the specific abuse of power. But the power itself is vastly increased, while the owners are at the same time removed from all apparent contact or sympathy with the communities which they serve. Serious conflicts of interests concerning a turnpike or bridge were almost impossible, because those who owned them, and those who used them, were, to a large extent, the same, or, at any rate, came in personal contact. But where one set of men own a railroad, and another set of men use it, the two only coming in contact through the medium of the railroad management, we have a state of things corresponding to the "absenteeism" of Irish landlords, and involving conflicts or dangers of the same kind.

The tendency to consolidation is, perhaps, a natural result of the recent wonderful growth of the American railroad system, and an illustration of the enterprise and grasping disposition of our modern railway kings. As showing the tremendous strides that have been made in this direction within the last few years, Mr. Hadley states this as a fact: "The Charleston and Hamburg Railroad, one hundred and thirty miles in length, was chartered in 1829. When opened, in 1833, it was the longest line of railroad under one management in the world."

How insignificant this seems by comparison with the immense lines now controlled absolutely by single corporations, and owned, as in some instances, almost entirely by a few individuals. In 1833 the power of railway corporations had not begun to be felt; the danger in them to the liberty of the people was not even dreamed of. Now, however, they insolently defy State control, and threaten to usurp the very powers of government itself.

This tendency to consolidation of large interests in a few hands, with the consequent control that it gives over the employes, is to my mind one of the threatening signs which now darkens the political horizon.

Things have been openly done within the last few years by railroad corporations in this State, and seemingly with the approval of the authorities,

which a few years ago would have resulted in a forfeiture of the privileges granted.

The fact, as is asserted, that consolidation of through lines gives cheaper through rates, is no compensation to a free people for the corruption of their officers or a violation of their cherished rights.

The old theory that "competition is the life of trade" should be modified in these modern days. "Prices are now determined, not by competition, but by combination." As was wisely said by George Stephenson, the father of modern steam railroads, "when combination is possible, competition is impossible."

The combinations of modern times have not been confined to railroads alone. "Grain corners," "pork corners," and other modern devices to raise the price of staple articles, were prohibited by the old common law, and made a criminal offense under the name of Forestalling. "Railway pools" were then unknown.

When competition among rival lines on this coast commences, it is popularly supposed that railway grievances will cease. Never was there a greater error. It is the interest of all railroad owners to maintain rates, unless more money can be made by a reduction and a consequent increase of traffic; but when rival lines come in there may be real competition for a time. The money lost by railroad managers during such times comes out of the people at last, for then comes the "pool" to maintain rates, and divide traffic, which, although specious arguments may be made to the contrary, is fraught with great danger, and should be absolutely prevented by law.

EASTERN FRUIT SHIPMENTS.

Within the last few years there has been a gratifying decrease in the "through rates" upon California shipments to eastern markets. The first great reduction was made voluntarily by the railroad company in the year 1883, whilst this Commission was on a visit to Los Angeles. The prevailing rates upon carload lots of oranges were reduced from \$900 to \$600 per carload at that time. Three hundred dollars is now the rate, as I understand, and further reductions would stimulate production and increase the revenue of the railroad company, as I verily believe.

Hon. M. M. Estee, in an address delivered before the State Agricultural Society last September, presents some valuable facts upon the subject. Presenting some statistics upon the increased "through freight" and the reductions in rates, he says:

That I might know the exact progress made in California during the past fifteen years, in fruit culture, the most accurate way was to find out what fruits we had shipped out of the State, and the yearly increase of such shipments. I therefore sought Mr. A. N. Towne, Manager of the Pacific Railroads, who very courteously compiled for me the statistics hereafter presented, and which may be taken as correct.

I present these figures in exactly the form I obtained them.

This gentleman further digresses from the general tenor of his remarks to make the following observations:

I may be pardoned for here saying that the interest of the carrier and the interest of the producer are, and always must be identical; that that which cripples the one will in time destroy the other. When the carrier puts the rate of transportation at a figure which enables the producer to make money, the producer puts forth his best energies and increases the production, and the carrier finds his utmost capacity strained to accommodate the increased production thus stimulated.

In other words, cheap transportation inspires large production, and large production makes cheap transportation profitable. Both sides have learned a lesson. The producer has learned that he must have a market, and the carrier has learned that to make the producer send his products by his line, he must so regulate his prices as to make the business profitable to the producer.

The increase in the production of canned fruits since 1871, has been equally great. Some years being less productive than others, the improvement has not been entirely uniform; yet the average increase has no parallel in any other State in the Union.

These remarks are applicable to through shipments, and intended to refer to the policy adopted by the railroad companies in transporting the surplus over that required for home consumption.

My observation has been that the same wise policy has not been carried out with reference to local rates, for it is a fact, that during many seasons of late years, fruit has been allowed to rot upon the trees at points distant from a market, whilst in the large centers high prices were maintained. Reduced rates would have enabled the producers to sell their surplus at a fair profit, and consumers, at a distance from the point of production, could have obtained their supplies at reduced prices.

THE RAILROAD TAX LITIGATION.

A matter of much interest to the people of this State is the present aspect of the litigation respecting delinquent railroad taxes. As is well known, many of the counties in California have been very seriously inconvenienced and embarrassed by the failure of the railroad corporations to pay what was assessed against them. The following summary of these matters has been obtained from the most reliable sources now at hand.

Shortly after the adoption of the present Constitution, the corporations, seeking to avoid their share of the public burdens, determined to resist the enforcement of the revenue laws. They took the initiative themselves. C. P. Huntington instituted an action in the United States Circuit Court against the Central Pacific Railroad Company and the Tax Collector of Alameda County, to restrain the one from paying, and the other from receiving, the taxes levied upon the company's property in that county. In August, 1881, this action (known and reported as *Huntington vs. Palmer*), was in the Circuit Court decided adversely to the railroad company. It was at once appealed to the Supreme Court. At the October term, 1881, the United States Supreme Court unanimously affirmed the judgment of the Court below and dismissed the appeal. In pronouncing judgment, Mr. Justice Miller said: "There is nothing in this case to repel the reasonable presumption that parties were improperly and collusively made in order to invoke the jurisdiction of the Federal Court."

Defeated in this flank movement to avoid the payment of their taxes, the companies refused to pay *in toto*, and the people were forced to resort to the Courts to enforce collection. To write the full history of this struggle in its various details would require much greater space than should be devoted to this branch of my report. It is, however, of such great interest to the tax-paying public that I feel it my duty to present its salient features as briefly as may be, consistent with a full understanding of the controversy.

The contested suits may be divided into two great classes:

First—Those for the fiscal years 1880-1, 1881-2, and 1882-3, wherein the several counties were vested with the power of collection against the railroads included in their territory.

Second—Those for the fiscal years 1883-4, and 1884-5. By the Act of 1883 it became the duty of the State authorities to institute and maintain all actions for delinquent taxes against the railroad corporations operating in more than one county. The actions for these years were brought by attorneys employed by the Controller. The United States Circuit Court, however, recognized the precedence of the Attorney-General.

To pave the way to success in their scheme of resistance to taxation, it was industriously circulated by the companies and their agents, and by a portion of the public press, that the entire tax was illegal; that the provisions of our Constitution and our revenue laws were in conflict with the Constitution of the United States, and that the people were not entitled to recover one dollar of the tax. Many of the counties had based their estimates of receipts and expenditures upon the calculation of the payment of their liabilities by the railroads. As a consequence, many of the counties, being embarrassed in their finances, made such settlements with the companies, with or without suit, as their necessities seemed to require. The first class of cases above referred to (*i. e.*, those for the fiscal years 1880-1, 1881-2, and 1882-3), may, therefore, be divided into three classes:

1. Those cases wherein no action was instituted.
2. Those wherein, after action commenced, the suits were compromised and settled upon varying payments.
3. Those that were prosecuted to judgment.

The following tabulated statements show substantially the relations of the demand, under the law, to the payments made by the respective companies for the entire five fiscal years, from 1880-1 to 1884-5, inclusive:

TABLE A.

Cases compromised by county authorities without suit.

COUNTY.	Name of Railroad.	Fiscal Year.	Amount Levied.	Amount Paid.	Total Loss.
Sacramento	California Pacific	1880-1	\$104 07	\$59 81	\$44 26
Sacramento	California Pacific	1881-2	140 25	78 22	62 03
Merced	Central Pacific	1880-1	13,132 25	8,155 91	4,976 34
Shasta	Central Pacific	1880-1	8,952 63	4,822 20	4,130 43
Sierra	Central Pacific	1880-1	1,241 66	830 27	411 39
Yuba	Central Pacific	1880-1	7,235 75	3,736 88	3,498 87
Merced	Central Pacific	1881-2	18,375 00	9,321 52	9,053 48
Shasta	Central Pacific	1881-2	12,465 00	5,625 90	6,829 10
Sierra	Central Pacific	1881-2	1,558 75	830 27	728 48
Yuba	Central Pacific	1881-2	9,522 00	5,071 68	4,450 32
Shasta	Central Pacific	1882-3	7,332 00	5,651 28	1,680 72
Sierra	Central Pacific	1882-3	1,625 40	1,581 58	43 82
El Dorado	Sacramento and Placerville.	1880-1	4,668 45	2,929 94	1,738 51
El Dorado	Sacramento and Placerville.	1881-2	4,228 53	2,949 57	1,278 96
Totals			\$90,571 74	\$51,645 03	\$38,926 71

TABLE B.

Cases compromised after suit brought prior to January 1, 1883.

(The details of accounts due and received are not immediately attainable. The loss in each case is official.)

COUNTY.	Name of Railroad.	Fiscal Year.	Date of Judgment.	Total Loss.
Butte	Central Pacific	1880-1	October 6, 1882	\$5,836 04
Butte	Central Pacific	1881-2	October 8, 1882	7,200 00
Kern	Southern Pacific	1880-1		10,724 00
San Diego	Southern Pacific	1880-1	September 5, 1882	17,137 54
Kern	Southern Pacific	1881-2		17,674 50
San Diego	Southern Pacific	1881-2	September 5, 1882	16,679 26
Total loss				\$75,251 34

TABLE C.

Sixty-three cases, wherein, on February 29, 1884, and March 8, 1884, "consent judgments" were entered for portions of the amounts due. For convenience, all of these cases, against each separate corporation, are consolidated in this table. They are for the fiscal years 1880-1, 1881-2, and 1882-3:

NAME OF RAILROAD.	Due at Date of Judgment.	Amount of Consent Judgment.	Total Loss.
Central Pacific	\$547,570 64	\$231,738 02	\$315,832 62
Southern Pacific	242,302 94	125,020 40	117,282 54
Northern Railway	45,860 17	19,236 80	26,623 37
Vaca Valley and Clear Lake	12,189 91	7,364 40	4,825 51
San Pablo and Tulare	38,743 65	11,392 42	27,351 23
Stockton and Copperopolis	33,612 82	19,543 93	14,068 89
California Pacific	89,192 13	53,290 10	35,902 03
Santa Cruz	5,283 25	2,785 41	2,497 84
Totals	\$1,014,755 51	\$470,371 48	\$544,384 03

TABLE D.

Cases disposed of November 10, 1884, in United States Circuit Court by judgment on general findings for the several defendants, wherein no money whatever was paid:

COUNTY.	Railroad.	Fiscal Year.	Total Due.	Total Loss.
Napa	California Pacific	1881-2	\$13,530 00	\$13,530 00
Alameda	California Pacific	1882-3	27,789 34	27,789 34
San Benito	Southern Pacific	1881-2	5,096 43	5,096 43
San Benito	Southern Pacific	1882-3	4,765 50	4,765 50
Totals			\$51,181 27	\$51,181 27

TABLE E.

Cases brought by the State under the Act of 1883, for the fiscal year 1883-4, wherein sixty per cent of the *face* of the assessment was paid to the Attorney-General on account:

NAME OF RAILROAD.	Total Amount Due.	Total Amount Paid.	Total Loss.
Central Pacific	\$375,613 64	\$166,119 06	\$209,494 58
Southern Pacific	284,461 98	125,806 29	158,655 69
Northern Railway	39,282 58	17,373 14	21,909 44
California Pacific	85,229 38	15,580 56	19,648 82
Stockton and Copperopolis	5,546 60	2,453 23	3,093 38
San Pablo and Tulare	13,667 94	6,044 79	7,623 38
Totals	\$753,802 12	\$333,377 07	\$420,425 05

TABLE F.

Cases for the fiscal year 1884-5, wherein fifty per cent of the *face* of the assessment was paid to the Attorney-General:

NAME OF RAILROAD.	Total Amount Due.	Total Amount Paid.	Total Loss.
Central Pacific	\$450,329 15	\$169,973 30	\$280,350 85
Southern Pacific	323,948 10	122,275 35	201,672 75
Northern Railway	40,641 03	15,340 11	25,300 92
California Pacific	36,827 96	13,900 85	22,927 11
San Pablo and Tulare	13,755 19	5,191 95	8,563 24
Totals	\$865,501 43	\$326,686 56	\$538,814 87

In addition to the cases above detailed, fifteen actions pending in the United States Circuit Court on March 3, 1884, for taxes due certain counties for the fiscal years 1880-1, 1881-2, and 1882-3, have (with the sole exception of the Santa Clara case) been compromised by the several county authorities, upon terms which I am not at present able to determine. I cannot, therefore, tabulate the exact loss sustained by the people.

The summary of the above tabulated statements, shows the following gross losses sustained:

Table A	\$38,926 71
Table B	75,251 34
Table C	544,384 03
Table D	51,181 27
Table E	420,425 05
Table F	588,814 87
Total loss	\$1,668,983 27

In addition to the above amount, there is due the State as interest, forty-six per cent on the \$544,384 03 shown in Table C, and greater or less percentage on the remaining amounts. The total interest due will swell the gross loss to over \$2,200,000.

Of the sums set forth in the above tables, as paid on the "consent judgments," and paid on account for the fiscal years 1883-4 and 1884-5, the sum of over \$803,000 has never been covered into the Treasury. The amount is in the hands of the Attorney-General. The proper disposition of this large sum is now under consideration by the Supreme Court of California. It is not proper that I should express an opinion as to the probable judgment of the Court. It will suffice to say that if the Court shall hold the \$803,000 *not* a part of the public revenue, the several corporations will be in arrears to the people in a sum exceeding \$3,000,000.

The foregoing tables were compiled from the official records of the United States Circuit Court, and figures kindly furnished from the office of the State Controller. The same general facts were found by Superior Judge J. F. Sullivan in the case of *Rooney vs. Marshall et al.*, after a hearing upon a reference ordered by the Supreme Court of California.

After these tables, and the comments thereon, had gone into the hands of the State Printer, I was informed by a letter from Hon. Creed Haymond, of the Law Department of the Southern Pacific Company, that the figures appearing in Exhibit "A" of Judge Sullivan's findings of facts, were "calculated to mislead." Upon receiving such a communication from Mr. Haymond, I called upon him at his office, and discussed the subject at some length.

In his letter to me under date of the twenty-ninth of January, 1886, Colonel Haymond says this: "So far as I have gone the findings are wrong. Take, for instance, Exhibit 'A.' The amount of the face of the tax foots up \$602,471 25; the amount paid, \$470,476 08. This is calculated to mislead the Court, if these figures are intended to represent the face of the tax and the amount paid by the companies. Taken in that light it would appear that the companies have not paid the principal within \$132,000.

"The reverse of this is the fact. Instead of the payments being less than the face of the taxes, they have been in excess thereof by several thousand dollars."

In my interview with Colonel Haymond he asserted that the whole amount of the face of the tax had been paid, and more besides. That in many instances the attorney's fees had been paid, and in some cases the five per cent penalty, likewise. All of these payments antedated the judgments in the United States Circuit Court. Colonel Haymond stated that it would be safe to say that the amount paid in the cases mentioned would be in excess of \$700,000.

The gentleman likewise informed me, that in all the suits for taxes brought up to this date for 1880-1, 1881-2, and 1882-3, that the full amount due has been tendered and will be paid, whatever may be the final result of the suits. Colonel Haymond also stated, that in all the cases which have been brought up to this time (exclusive of what the companies intend to pay whether they win or lose), that if the State should receive judgment upon the basis of her asserted claim, the whole amount of the recovery would not be over \$900,000.

With reference to this subject, it is proper to say this: Colonel Haymond offered to produce the vouchers for his statements, but it would have required the services of an expert to verify the statements. Judge Sullivan's findings were based upon the proofs presented, and are correct. Neither the records of the Circuit Court, nor any evidence offered before Judge Sullivan, showed any payments to the counties of their portion of the tax, or to attorneys, and his findings are therefore strictly supported by the evidence adduced.

It is true that in many cases payments have been made to the counties, and this, of course, would reduce the aggregate deficiency shown in the foregoing tables. Colonel Haymond, likewise, denies the liability of the companies for interest. It must be borne in mind, however, that he likewise denies any legal liability under the present mode of assessment. When the railroad companies furnish a full statement of the amount actually paid to the several counties, it will be possible to ascertain the exact amount of their liability.

That the State has been seriously inconvenienced by the failure of one of her creatures to pay the taxes levied, is a matter which does not admit of cavil or question.

RECOMMENDATIONS.

That portion of the report of my associates which recommends the granting of additional powers to the Commission, meets with my cordial approval.

There is another thing which ought to be provided for in some way. As is well known, the keeping of railroad accounts has been reduced to an absolute science within the last few years.

Some one of the Commissioners should be an expert bookkeeper and accountant, or this Commission should be authorized to employ such a

person, as occasion requires. This was provided for in the Act creating the State Board of Bank Commissioners.

When the present Board was organized, certain forms were prescribed, which the various companies were required to fill in and return to this Board, once a year. They were substantially those used by the Board when you were a member thereof, but as they call for mere aggregates, are of little value for practical use.

Upon this subject of railroad bookkeeping, and how figures can be made to show almost any desired result, Professor Hadley makes this interesting showing:

The theory is simple enough. But there is an enormous practical difficulty in knowing what are current expenses and what are permanent investments.

A railroad has a wooden bridge which needs repairs. Instead of repairing it the company substitutes an iron bridge whose first cost is much greater. How much of the cost shall be charged to repairs and how much to new construction? Or, take a problem which was constantly coming up a few years ago: A road takes up iron rails which cost it fifty dollars per ton, substitutes steel rails at sixty dollars per ton, and sells the old iron at thirty dollars. How shall the debits and credits be divided between the repairs and construction account? These are far from being exceptionally difficult cases to deal with.

Even with the best of intentions on the part of railroad managers, these things are hard to decide. When the intentions are not the best, it is easy to decide them wrongly, and hard to detect the wrong. It will quite frequently happen that the management is far more interested in having a road declare large dividends than in having its capital account on a sound basis. To declare a dividend which they have not earned, they must find a pretext for borrowing money. This they usually do by swelling the item of new construction unfairly. If they charge to new construction what really belongs to repairs, they can borrow money to pay for what should really have been paid out of earnings, and apply the money thus unfairly saved, to swell the sum available for dividends. This is one among many ways; but it is more common than all the rest put together.

We have thus treated the question from the inside point of view. The facts being given, what dividends should be or can be paid? To the general public the matter appears in a somewhat different light. A dividend having been paid, how can an outsider determine from the accounts whether it has presumably been earned? It is impossible to give a satisfactory answer to this question. We can only call attention to a few of the more decisive indications.

We have seen that the common way of swelling dividends is to charge repairs to new construction, and borrow money to pay for it. If, then, we find that the sum for repairs is small, and for new construction large, and that there is a constant increase of the floating debt, there is a strong presumption against the management, and against the honesty of the dividend. It requires some technical knowledge to decide whether the amounts charged to repairs and construction respectively are really large or small. They have to be compared both with the statistics of what has been actually done and with previous annual reports of the same company. From one such report we can learn but little. If in a series of years we find the repairs diminishing and the new construction increasing, without any marked change in the general condition of the road, we may be reasonably sure that something is wrong.

Another way of doing the same thing is to charge high prices for hauling the material which a road uses in its own construction. The earnings are thus swelled at the expense of the construction account.

The Commission should likewise have the power to compel railroad corporations to maintain proper crossings, and, when needed, to employ flagmen. Also to regulate the speed of trains at certain places. Such incidental powers as these have proved of great efficiency in other States, and would doubtless be of advantage here. In most cases of this kind, mere recommendations, coupled with the power to enforce compliance, has generally proved sufficient.

MISCELLANEOUS.

The recent severe storms in this State have done great damage to railroad property in California, by washing away track, carrying away bridges, destroying culverts, and in various other ways. Most of this damage has been done on the southern lines, and some of it beyond the limits of California. The exact extent of the damage, or the financial losses sustained, cannot now be accurately estimated.

As showing an unprejudiced view of the work of this Commission, I append a comment from Mr. Hadley's excellent work:

The California Commission has had an interesting history too long to be detailed. It undertook far more than could possibly be carried out, and the Central Pacific was able to defy and evade its authority completely.

As this work was issued about the middle of the year 1885, and so careful an author as Mr. Hadley would scarcely have omitted to examine the work of this Commission, his comments do not sustain the vainglorious boast of the majority as to the good they have accomplished.

CONCLUSION.

The "proceedings" of this Board for the past year (a report of which is annually required by the Constitution) could be contained upon a single printed page. The "other facts deemed important," an annual report of which is likewise required, is my apology for the length of this report.

I have sought no controversy with my associates, nor have I ever impugned the motives upon which they have based their action, or want of action. In their first annual report, they make vicious attacks upon my official acts, and these have continued until patience has ceased to be a virtue. In their present report, invective, ridicule, and misstatement have been freely used to glorify themselves and make my action appear to be capricious and senseless. I have herein endeavored to state, in such language as the provocation justified, the true condition of affairs as they exist.

It is to be greatly regretted that this Commission, from which so much was reasonably hoped, has so utterly failed to accomplish any of the results which have been expected and desired. From this presentation of facts, acts, and proceedings, it can be readily discerned that whatever is to be done in the future lies wholly within the power of the majority of this Board.

All of which is respectfully submitted.

W. W. FOOTE,
Railroad Commissioner, Third District.

EXHIBIT A.

Chapter 403. An Act to incorporate the Southern Pacific Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. That Henry D. McHenry, Wm. G. Duncan, Samuel E. Hill, Samuel K. Cox, Henry McHenry, Jr., and their associates and successors and assigns, be and they are hereby created and constituted a body corporate and politic, under the name of the Southern Pacific Company, and as such shall have perpetual succession, and be capable in law to purchase, grant, sell, or receive, in trust or otherwise, all kinds of personal and real property to such amount as the Directors of said company may, from time to time, determine; and to contract and be contracted with, sue and be sued, plead and be impleaded, appear and prosecute to final judgments all suits or actions at law or in equity in all Courts and places; and to have and use a common seal, and to alter the same at pleasure; and to make and establish such by-laws, rules, and regulations for the government of said company and the conduct of its business as said corporation or the stockholders therein shall deem expedient or necessary for the management of its affairs, not inconsistent with the Constitution and laws of this State or of the United States; and generally to do and execute all acts, matters, and things which may be deemed necessary or convenient to carry into effect the powers and privileges herein granted; *provided*, however, that said corporation shall not have power to make joint stock with, lease, own, or operate any railroad within the State of Kentucky.

SEC. 2. The said corporation is hereby authorized and empowered to contract for, and acquire by purchase or otherwise, bonds, stocks, obligations, and securities of any corporation, company, or association now existing, or hereafter formed or constituted, and bonds, obligations, and securities of any individuals, State, Territory, Government, or local authorities whatsoever, and to enter into contracts with any corporation, company, or association, individuals, State, Territory, Government, or local authorities in respect of their bonds, stock, obligations, and securities, or in respect of the construction, establishment, acquisition, owning, equipment, leasing, maintenance, or operation of any railroads, telegraphs, or steamship lines, or any public or private improvements, or any appurtenances thereof, in any State or Territory of the United States, or in any foreign country, and to buy, hold, sell, and deal in all kinds of public and private stocks, bonds, and securities, and said corporation may borrow and loan money, issue its own bonds or other evidences of indebtedness, and sell, negotiate, and pledge the same, to such amounts, upon such terms, and in such manner as may, from time to time, be determined by the Directors of said corporation; and it may mortgage all or any part of its property, assets, and franchises, to secure such bonds and the interest thereon, on such terms and conditions as shall on that behalf be prescribed by its Board of Directors.

SEC. 3. The capital stock of said corporation shall be one million dollars, divided into shares of one hundred dollars each; which shares shall be deemed personal property, and may be issued, transferred, and forfeited for non-payment in such manner as the Board of Directors of such corporation may determine; and no person shall be in anywise liable as a stock-

holder of said corporation after said capital stock to such amount of one million dollars shall have been paid in in cash, and a certificate to that effect signed and sworn to by the Treasurer and a majority of the Board of Directors of said corporation shall have been filed in the office of the Secretary of State of this State; nor shall the said corporation, nor any of the officers or agents thereof, be thereafter bound to make any further returns or certificates; *provided*, however, that if, after the payment of such capital stock, any part thereof shall be withdrawn for or refunded to any of the stockholders when the property of the corporation is insufficient or will be thereby rendered insufficient for the payment of all its debts, the stockholder receiving the same shall be bound and obliged to repay to said corporation or its creditors the amount so withdrawn or refunded.

Sec. 4. Any two of the persons above named as incorporators of said corporation may call the first meeting for the organization of such corporation, at such time and place as they may appoint, by mailing a proper notice of such meeting to each of such corporators, at least ten days before the time appointed; and in case a majority of such corporators shall attend such meetings, either in person or by proxy, they may open books for subscriptions to its capital stock; and whenever five hundred thousand dollars shall be subscribed, and ten per cent of said subscriptions shall be paid in cash, the stockholders of said corporation may organize the same, and said corporation may proceed to business.

Sec. 5. Each share of stock shall entitle the holder thereof to one vote, in person or by proxy, at all meetings of the stockholders. The holders of a majority in interest of the capital stock, present in person or by proxy, shall constitute a quorum. The corporation shall have a lien on all the stock and property of its members invested therein for all debts due by them to said corporation, which lien may be enforced in such manner as the by-laws shall prescribe.

Sec. 6. The stock, property, and affairs of said corporation shall be managed by a Board of Directors of such number, not less than three, as may be, from time to time, determined by the corporators or stockholders. The Directors shall be elected by the stockholders, at such time and place, and in such manner, and for such terms, as the stockholders shall, from time to time, determine. Meetings of Directors or stockholders may be held within or without the State. No person shall be elected a Director who is not a stockholder of the corporation. A majority of the Directors shall constitute a quorum of said Board for the transaction of business. The Directors shall appoint from their own number a President, and they shall also appoint a Clerk and Treasurer, and such other officers and agents as they may deem proper, to hold their offices during the pleasure of the Board. In case of a vacancy or vacancies in the Board, the remaining Directors may fill such vacancy or vacancies. The capital stock of said corporation may be increased, from time to time, to such sum as may be determined by the Board of Directors of said corporation, provided such increase or diminution shall be approved by at least two thirds in interest of the stockholders of said corporation.

Sec. 7. The annual tax upon said corporation shall be the same as is now fixed by law for broker's license; *provided*, that all property owned by said corporation, and situated in the State, shall pay the same State and local tax as is assessed upon similar property; and capital stock in said corporation, owned by citizens of the State, shall be assessed against the holders thereof as choses in action under the equalization law.

Sec. 8. The company shall keep an office for the transaction of busi-

ness; and the clerk or assistant clerk of said corporation shall reside *within the State of Kentucky*; but the said corporation may keep offices at such places outside of this State as, in the judgment of its Board of Directors, its business may, from time to time, require; *provided*, that nothing herein contained shall be construed as granting any lottery or banking privileges.

SEC. 9. This Act shall take effect immediately upon its passage.

CHARLES OFFUTT,
Speaker of the House of Representatives.

JAMES R. HINDMAN,
Speaker of the Senate.

Approved March 17, 1884.

J. PROCTOR KNOTT.

By the Governor.

JAS. A. MCKENZIE, Secretary of State.

EXHIBIT B.

This agreement, made and entered into this seventeenth day of February, 1885, between the Southern Pacific Company, a corporation duly organized and existing under the laws of the State of Kentucky, and now doing business in the State of California, and the Central Pacific Railroad Company, a corporation duly formed and existing under the laws of the State of California and the United States, witnesseth: That, whereas, part of the through business heretofore done by the Central Pacific Railroad Company's line from Ogden to the waters of the Pacific has been diverted by the Northern Pacific, Atlantic and Pacific, and, Atchison, Topeka, and Santa Fe Railroads; and, whereas, the Union Pacific Railroad Company has secured the control of the road known as the Oregon Short Line, and thereby secured an outlet to the Pacific other than over the Central Pacific Railroad, and thus in that respect placed itself in opposition to the interests of the Central Pacific; and, whereas, it now appears that the through business hitherto done by the Central Pacific Railroad will thereby be further diverted, and that it is not only to the best interest of, but absolutely necessary that the Central Pacific Railroad Company, in order to maintain itself against these diversions, should be operated in connection with a friendly through line to the waters of the Atlantic; and, whereas, the said Southern Pacific Company has a line of railroad under its control for a period of ninety-nine years, extending continuously from the Pacific Ocean to the Atlantic Ocean; and, whereas, the lines of each company are doing a large local traffic, and it is important to both that the same should be conducted in harmony; and, whereas, the said Southern Pacific Company is willing to enter into an agreement with the Central Pacific Railroad Company, whereby its line and the line of the said Southern Pacific Company shall be operated so as to secure their just rights to each without the one gaining any benefit or advantage at the expense of the other, and whereby the Central Pacific Railroad Company may for a long term of years be assured of protection against the diversions of its traffic, and be relieved of the disadvantages flowing from lack of harmonious connections; and, whereas, by reason of the facts before recited, it is mutually advantageous to the Southern Pacific Company and the Central Pacific Railroad Company to make such agreement; and, whereas, both companies contract in the knowledge that the

future development of the country may change materially the relations of the companies to each other in respect to railroad traffic, and may in the future render any agreement now made, however fair in its terms in view of existing conditions, advantageous to one at the expense of the other, and thereby defeat the purposes which said companies desire and intend to accomplish by making this agreement; and, whereas, it is intended that such shall never be the effect of this agreement, therefore all the promises and covenants herein shall be construed in the light of the conditions now existing, and the arbitrators hereinafter named, in adjusting the terms and provisions of this agreement to a changed state of affairs, if such change should ever take place, must keep in view the main purpose of the parties to this agreement, to wit: that it is for the mutual advantage of both parties, and that neither is to be benefited at the expense of the other.

Now, therefore, to accomplish the purposes aforesaid, in consideration of the premises and of the mutual promises herein, the said Central Pacific Railroad Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the first day of April, A. D. 1885, the whole of its railroad situated in the Territory of Utah, and States of Nevada and California, and known and designated as the Central Pacific Railroad, together with all the branches thereof, together with all the rolling stock, telegraph lines, steamboats, wharves, piers, depots, workshops, and all other property real and personal now owned, held, and possessed by the said Central Pacific Railroad Company and used upon or in connection with said railroad and telegraph, together with all the appurtenances thereunto belonging, with the right to possess, maintain, use, and operate and enjoy the said property, and to receive the rents, issues, and profits thereof.

And the said Central Pacific Railroad Company hereby assigns to the said Southern Pacific Company all the leases which it now holds of railroads and other property situated in said State of California, and lying and being north of the town of Goshen, in the County of Tulare, with the right to take, hold, operate, maintain, and enjoy said railroads and other property in the same manner as the said Central Pacific Railroad Company holds, operates, enjoys, and maintains the same under the said leases, and with the right to receive the rents, issues, and profits thereof.

And the said Central Pacific Railroad Company hereby releases the Southern Pacific Railroad Company, a corporation formed and existing under the laws of the United States and of the State of California, and the Southern Pacific Railroad Company, a corporation formed and existing under the laws of the Territory of Arizona, and the Southern Pacific Railroad Company, a corporation formed and existing under the laws of the Territory of New Mexico, and each of them, from all and every obligation under or by virtue of any and every lease made by said three last mentioned railroad companies, or either of them, to the said Central Pacific Railroad Company, and transfers and surrenders unto the said Southern Pacific Company the possession of all the property in said leases or any of them mentioned or described, with the right to receive the rents, issues, and profits thereof free from all claim of the said Central Pacific Railroad Company to the same or any part thereof.

The said Southern Pacific Company agrees to and with the said Central Pacific Railroad Company, that it will keep and maintain the property hereby leased in good order, condition, and repair; operate, maintain, add to, and better the same at its own expense; pay all taxes legally assessed against or levied thereon; and will, at the termination of this lease, return the same to the said Central Pacific Railroad Company, or to its succes-

sors or assigns (with additions and betterments), in as good condition and repair as the same was at the date hereof.

And the said Southern Pacific Company hereby agrees to and with the said Central Pacific Railroad Company, that it hereby assumes and will discharge all the liabilities and obligations of every kind (including its obligations on leases now held by it) of the said railroad company, except the obligation to pay the principal of said railroad company's indebtedness known as its "floating debt," and except the obligation to pay the principal of the indebtedness of said railroad company known as its "bonded indebtedness," now outstanding and secured by mortgage or deed of trust, or which may be hereafter incurred under the provisions of any existing mortgage or deed of trust, or of any mortgage or deed of trust hereafter made with the consent of the Southern Pacific Company, and except the principal of all indebtedness the payment of which has heretofore been guaranteed by the Central Pacific Railroad Company, and except the principal of the indebtedness of the said Central Pacific Railroad Company evidenced by bonds of the United States, heretofore by the Government thereof loaned to the said Central Pacific Railroad Company; that as to such excepted indebtedness the said Southern Pacific Railroad Company will pay off and discharge at maturity the interest upon the same, except the interest upon the bonds of the United States, loaned as aforesaid, and that as to such bonds and the interest thereon, the said Southern Pacific Company will discharge the annual obligations imposed upon said Central Pacific Railroad Company by existing Acts of Congress, and will, during the continuance of this agreement, fully comply with the terms of, perform all the duties prescribed in, and discharge all the obligations imposed upon said Central Pacific Railroad Company by the Act of Congress commonly known as the "Thurman Act."

And the said Southern Pacific Company hereby agrees to and with the said Central Pacific Railroad Company, that it will well and truly perform all the duties and obligations of said railroad company to the United States and the Government thereof under existing Acts of Congress relating to the maintenance and operation of its railroad, and to transportation for said Government over the same, as fully and faithfully as said railroad company is bound to do, except as otherwise hereinbefore provided.

And the said Southern Pacific Company agrees to and with the said Central Pacific Railroad Company that it will keep true and faithful accounts of all the earnings of the said Central Pacific Railroad, including the earnings of the railroads now held by said Central Pacific Railroad Company under leases and situated north of Goshen, together with true and faithful accounts of all expenditures, payments, and disbursements of every kind made by the said Southern Pacific Company in operating, maintaining, adding to, and bettering the same, and of all expenditures, payments, and disbursements made by the said Southern Pacific Company for taxes, rentals, interest, or in discharge of obligations incurred by said Southern Pacific Company under the provisions of this agreement, hereinbefore contained; *provided, however*, that any payments made by the said Southern Pacific Company to either of the said Southern Pacific Railroads hereinbefore mentioned for rentals under the terms of existing leases in favor of the said Central Pacific Railroad Company, and now assigned to the Southern Pacific Company, shall never be included in and made part of any charge against the said Central Pacific Railroad Company, or the earnings of its said railroad.

And the said Southern Pacific Company hereby agrees with the said Central Pacific Railroad Company that during the continuance of this

lease it will annually, on the first Monday in May, pay to the said Central Pacific Railroad Company, as guaranteed rental for said Central Pacific Railroad and other leased property for the year ending on the thirty-first day of December next preceding that date, the sum of one million two hundred thousand dollars (\$1,200,000).

And the said Southern Pacific Company hereby further in this behalf agrees with the said Central Pacific Railroad Company that if the earnings of the said Central Pacific Railroad and of the railroads situated north of Goshen now held by the said Central Pacific Railroad Company under leases, shall in any year during the continuance of this agreement exceed all expenditures, payments, and disbursements of every kind made by the said Southern Pacific Company for such year in operating, maintaining, adding to, and bettering the same, and of all expenditures, payments, and disbursements made by the said Southern Pacific Company for taxes, rentals, interests, and in discharge of any of the obligations by said Southern Pacific Company incurred under this agreement as heretofore provided, including the said sum of one million two hundred thousand dollars, then such excess for any such year not exceeding the sum of two million four hundred thousand dollars shall, on the first Monday in May as aforesaid, be paid to the said Central Pacific Railroad Company as additional rental for such year.

And it is further agreed between said Southern Pacific Company and the said Central Pacific Railroad Company, that if at any time it appears that by the operation of this agreement, either party is being benefited at the expense of the other, then this agreement shall be revised and changed so that such will not be the operation thereof, and if the parties hereto cannot agree upon the changes necessary to that end, then each party shall appoint one arbitrator, disinterested, but skilled in relation to the subject-matter, and the award and decision of such arbitrators in writing, shall be binding upon the parties hereto, and this agreement shall be revised and changed in accordance with such award and decision, and as revised and changed shall be duly executed in writing by the parties hereto.

And it is further agreed, that if the arbitrators so chosen cannot agree upon an award and decision then, that the two shall choose a third impartial and skilled arbitrator, and that the award or decision of two of said three arbitrators shall have the same force and effect between the parties hereto, and shall be executed in like manner as hereinbefore provided for the award and decision of the two arbitrators first chosen.

And it is further agreed between the said Southern Pacific Company and the said Central Pacific Railroad Company, that if any legislation or governmental action hereafter be had, which, in the opinion of the said Southern Pacific Company is in hostility to the said Central Pacific Railroad Company, its rights or the property hereby leased, the said Southern Pacific Company may, on notice to the said Central Pacific Railroad Company, terminate this agreement, or may submit to arbitrators in the manner and with the effect hereinbefore provided for changes and revisions.

And it is further agreed between the Southern Pacific Company and the Central Pacific Railroad Company, that upon the execution of this agreement, the said Southern Pacific Company may enter upon, take possession of, and hold during the continuance of this agreement, all the property, real and personal, hereby leased by the said Central Pacific Railroad Company to the said Southern Pacific Company, and that duplicate lists of all the rolling stock and other personal and movable property so leased, showing its condition at the time of the execution of this agreement, shall

be made and certified by the Secretary of each of said companies, and that one of said lists shall be kept by each of said companies.

And it is further agreed between the Southern Pacific Company and the Central Pacific Railroad Company, that if at any time any of the rolling stock or other personal property hereby leased to the said Southern Pacific Company by said Central Pacific Railroad Company be used upon any roads other than the Central Pacific Railroad or the leased roads north of Goshen, then the said Southern Pacific Company shall credit to said Central Pacific Railroad Company the usual and customary sums paid by one railroad company to another for the use of the like property, and that the amounts so credited shall be deemed and taken to be a part of the earnings of said Central Pacific Railroad Company.

And it is further agreed that if, in the operation of the Central Pacific Railroad and leased roads north of Goshen, it becomes necessary to use any of the rolling stock or other personal property of the Southern Pacific Company not leased from the Central Pacific Railroad Company, upon the said Central Pacific Railroad or leased roads north of Goshen, that the usual and customary sums paid by one railroad company to another, for the use of like property, shall be allowed as and constitute a charge against the receipts of the said Central Pacific Railroad and said leased lines, and be so considered in the accounting hereinbefore provided for.

In testimony whereof, the said Southern Pacific Company and the said Central Pacific Railroad Company have caused these presents to be signed by their respective Presidents, and countersigned by their Secretaries, and their corporate seals to be hereunto affixed, pursuant to orders of their respective Boards of Directors, the day and year first herein written.

[In duplicate.]

W. E. BROWN,
President Southern Pacific Company.

[S. P. Co. Corporate seal]

H. C. NASH,
Secretary Southern Pacific Company.

LELAND STANFORD,
President Central Pacific Railroad Company.

[C. P. R. Co. Corporate seal]

E. H. MILLER, JR.,
Secretary Central Pacific Railroad Company.

EXHIBIT C.

This agreement, made this tenth day of February, 1885, between the Southern Pacific Company, a corporation duly organized and existing under the laws of the State of Kentucky, and the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the United States and the State of California; the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the Territory of Arizona; the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the Territory of New Mexico; the Galveston, Harrisburg, and San Antonio Railway Company, a corporation duly organized and existing under the laws of the State of Texas; the Texas and New Orleans Railroad Company, of 1874, a corporation duly organized and existing under the laws of the State of Texas; the

Louisiana Western Railroad Company, a corporation duly organized and existing under the laws of the State of Louisiana; Morgan's Louisiana and Texas Railroad and Steamship Company, a corporation duly organized and existing under the laws of the State of Louisiana; and the Mexican International Railroad Company, a corporation duly organized and existing under the laws of the State of Connecticut.

Witnesseth: That the said Southern Pacific Railroad Company, organized and existing under the laws of the United States and the State of California, hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of California, known and designated as the Southern Pacific Railroad of California, with all its branches and all railroads now leased by it, together with the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever now in use upon or in connection with said railroads, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use, and operate the said property, and to receive the rents, issues, and profits thereof.

II.

That the said Southern Pacific Railroad Company, organized and existing under the laws of the Territory of Arizona, hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad situated in the Territory of Arizona, and known and designated as the Southern Pacific Railroad of Arizona, together with all its branches, and all the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever now in use upon or in connection with said railroad or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use, and operate the said property, and to receive the rents, issues, and profits thereof.

III.

That the said Southern Pacific Railroad Company, organized and existing under the laws of the Territory of New Mexico, hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad situated in the Territory of New Mexico, and known and designated as the Southern Pacific Railroad of New Mexico, together with all its branches, and all the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever now in use upon or in connection with said railroad or its branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use, and operate the said property, and to receive the rents, issues, and profits thereof.

IV.

That the said Galveston, Harrisburg, and San Antonio Railway Company hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of Texas, and known and designated as the Galveston, Harrisburg, and San Antonio Railway, with all its branches, and all the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever, now in use upon or in connection with said railroad or its branches, and together with all the appurtenances thereunto belonging, and all other property now owned, held, and possessed by it, with the right to possess, maintain, use,

and operate the said property, and to receive the rents, issues, and profits thereof.

V.

That the said Texas and New Orleans Railroad Company of 1874, hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of Texas, and known and designated as the Texas and New Orleans Railroad of 1874, together with all its branches, and all the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever, now in use upon or in connection with said railroad or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use, and operate the said property, and to receive the rents, issues, and profits thereof.

VI.

That the said Louisiana Western Railroad Company hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad situated in the States of Texas and Louisiana, and known and designated as the Louisiana Western Railroad, together with all its branches and all the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever, now in use upon or in connection with said railroad or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use, and operate the said property, and to receive the rents, issues, and profits thereof.

VII.

That the said Morgan's Louisiana and Texas Railroad and Steamship Company hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, its railroad, situated in the State of Louisiana, and known and designated as the Morgan's Louisiana and Texas Railroad, all the branches thereof, and the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever, now in use upon or in connection with said railroad and branches, and together with all the appurtenances thereunto belonging; also all the steamships, steamboats, tugs, wharves, piers, landings, depots, buildings, and all other property, real and personal, now owned, held, or possessed by the said Morgan's Louisiana and Texas Railroad and Steamship Company, with the right to possess, maintain, use, and operate the said property, and to receive the rents, issues, and profits thereof.

VIII.

That the said Mexican International Railroad Company hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad, and the branches thereof, situated in the Republic of Mexico, known and designated as the Mexican International Railroad, together with all its branches, and the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever, now in use upon or in connection with said railroad, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use, and operate the said property, and to receive rents, issues, and profits thereof.

In consideration of the leases aforesaid, the said Southern Pacific Company agrees to, and with the other corporations parties hereto, that it will

keep the said leased property in good order, condition, and repair; operate, maintain, add to, and better the same at its own expense; pay all taxes legally assessed against or levied thereon; and will, upon the termination of this lease, return the same to the respective parties from which it was leased, or to their successors, with additions and betterments, in as good condition and repair as the same was at the date hereof.

That it hereby assumes and will discharge all the liabilities and obligations of every kind of the said railroad companies, and each of them, except the obligations to pay the principal of their indebtedness, known as the bonded indebtedness now outstanding, and secured by mortgage or deed of trust, or which may hereafter be incurred by either of said companies under the provisions of any existing mortgage or deed of trust, or any mortgage or deed of trust hereafter, with the consent of this company, made; that as to such bonded indebtedness, it will pay off and discharge at maturity the interest upon the same, and will, upon demand of either of said railroad companies, guarantee, in such form as said company may require, the payment of the principal and interest thereof; that said Southern Pacific Company will annually, on the first day of May, pay the following named railroad companies as rental a sum equal to ninety-three and one twelfth ($93\frac{1}{12}$) per cent of its net profits, if any net profits there be, for the year ending on the thirty-first day of December next preceding that date, as follows: To the said Southern Pacific Railroad Company existing under the laws of the United States and the State of California, twenty-six and one half ($26\frac{1}{2}$) per cent of said net profits; to the said Southern Pacific Railroad Company existing under the laws of the Territory of Arizona, twelve (12) per cent of said net profits; to the said Southern Pacific Railroad Company existing under the laws of the Territory of New Mexico, four (4) per cent of said net profits; to the said Galveston, Harrisburg, and San Antonio Railway Company, sixteen and one quarter ($16\frac{1}{4}$) per cent of said net profits; to the said Texas and New Orleans Railroad Company of 1874, seven and one half ($7\frac{1}{2}$) per cent of said net profits.

To the said Louisiana Western Railroad Company, three and one third ($3\frac{1}{3}$) per cent of said net profits.

To the said Morgan's Louisiana and Texas Railroad and Steamship Company, twenty-two and one half ($22\frac{1}{2}$) per cent of said net profits.

To the said Mexican International Railroad Company, one (1) per cent of said net profits.

The term net profits, as used herein, shall be construed to mean the moneys on hand available for dividends, after all expenses, payments, and disbursements of every nature and kind of the said Southern Pacific Company—except for the rental of railroads now or hereafter leased by said company—have been deducted.

In testimony whereof, the parties hereto have caused these presents to be signed by their respective Presidents, and countersigned by their Secretaries, and their corporate seals to be hereunto affixed, pursuant to orders of their respective Boards of Directors, on the day and year first herein written.

[In octuple.]

W. E. BROWN,
President Southern Pacific Company.

[Southern Pacific Company. Corporate Seal.]

H. C. NASH,
Secretary Southern Pacific Company.

CHARLES CROCKER,
President Southern Pacific Railroad Company.

[S. P. R. R. Co. Corporate Seal.]

J. L. WILLCUTT,
Secretary Southern Pacific Railroad Company.

CHARLES F. CROCKER,
President Southern Pacific Railroad Company.

[S. P. R. R. Co., Arizona. Corporate Seal.]

F. S. DOUTY,
Secretary Southern Pacific Railroad Company.

CHARLES F. CROCKER,
President Southern Pacific Railroad Company of New Mexico.

[S. P. R. R. Co., New Mexico. Corporate Seal.]

GEO. E. GRAY,
Secretary Southern Pacific Railroad Company of New Mexico.

T. W. PIERCE,
President Galveston, Harrisburg, and San Antonio Railway Company.

[G., H. & S. A. Ry. Co. Corporate Seal.]

CHAS. BABIDGE,
Asst. Secretary Galveston, Harrisburg, and San Antonio Railway Co.

C. P. HUNTINGTON,
President Texas and New Orleans Railroad Company of 1874.

[T. & N. O. R. R. of 1874. Corporate Seal.]

I. E. GATES,
Secretary Texas and New Orleans Railroad Company of 1874.

C. P. HUNTINGTON,
President Louisiana Western Railroad Company.

[L. W. R. R. Co. Corporate Seal.]

I. E. GATES,
Secretary Louisiana Western Railroad Company.

A. C. HUTCHINSON,
President Morgan's Louisiana and Texas Railroad and Steamship Co.

[M. L. & T. R. R. & S. S. Company. Corporate Seal.]

JNO. B. RICHARDSON,
Secretary Morgan's Louisiana and Texas Railroad and Steamship Co.

C. P. HUNTINGTON,
President Mexican INTERNATIONAL Railroad Company.

[M. I. R. R. Co. Corporate Seal.]

T. H. DAVIS,
Secretary Mexican International Railroad Company.

EXHIBIT D.

MILES.		Key Rates on Grain, in Cents, per Ton.	12½ per cent Added to Grain Rates for Cattle, Sheep, and Hogs.	20 per cent Added to Grain Rates for Flour and Millstuffs.	50 per cent Added to Grain Rates for Wool, Carload Lots.	Cents per Ton per Mile on Grain.
Under.	Over.					
0	5	60	63	72	90	12.00
10	5	70	79	84	105	7.00
15	10	80	90	96	120	5.33
20	15	90	100	108	135	4.50
25	20	100	112	120	150	4.00
30	25	110	124	132	165	3.66
35	30	120	135	144	180	3.43
40	35	130	146	156	195	3.25
45	40	144	158	168	210	3.11
50	45	150	169	180	225	3.00
55	50	160	180	192	240	2.90
60	55	170	191	204	255	2.83
65	60	180	202	216	270	2.77
70	65	190	214	228	285	2.71
75	70	200	225	240	300	2.66
80	75	205	231	246	308	2.56
85	80	210	236	252	315	2.47
90	85	215	242	258	323	2.40
95	90	220	248	264	330	2.30
100	95	225	253	270	338	2.25
105	100	230	259	276	345	2.19
110	105	235	265	282	353	2.14
115	110	240	270	288	360	2.09
120	115	245	276	294	368	2.04
125	120	250	282	300	375	2.00
130	125	257	289	313	386	1.98
135	130	264	297	317	396	1.95
140	135	271	305	325	408	1.93
145	140	278	313	334	417	1.91
150	145	285	321	342	428	1.90
155	150	292	329	351	438	1.88
160	155	299	337	359	449	1.86
165	160	306	346	367	459	1.85
170	165	313	353	376	470	1.84
175	170	320	360	384	480	1.83
180	175	327	368	392	491	1.82
185	180	334	376	401	501	1.80
190	185	341	384	409	512	1.79
195	190	348	392	418	522	1.78
200	195	358	403	430	537	1.77
210	200	371	418	445	557	1.76
220	210	384	432	461	576	1.74
230	220	395	445	474	593	1.71
240	230	405	456	486	608	1.68
250	240	415	466	498	623	1.66
260	250	425	478	510	638	1.63
270	260	435	490	522	653	1.61
280	270	445	501	534	668	1.58
290	280	455	512	546	683	1.56
300	290	465	525	558	698	1.55
310	300	475	535	570	713	1.53
320	310	485	546	582	728	1.51
330	320	495	557	594	743	1.50
340	330	500	563	600	750	1.47
350	340	510	574	612	765	1.45
360	350	520	585	624	780	1.44
370	360	530	597	636	795	1.43
380	370	540	608	648	810	1.42
390	380	550	619	660	825	1.41
400	390	560	630	672	840	1.40
410	400	570	641	685	855	1.39
420	410	580	653	696	870	1.38
430	420	590	664	708	885	1.37

EXHIBIT D—Continued.

MILES.		Key Rates on Grain, in Cents, per Ton.	12½ per cent Added to Grain Rates for Cattle, Sheep, and Hogs.	20 per cent Added to Grain Rates for Flour and Millstuffs.	50 per cent Added to Grain Rates for Wool, Carload Lots.	Cents per Ton per Mile on Grain.
Under.	Over.					
440	430	600	675	720	900	1.36
450	440	710	686	732	915	1.35
460	450	620	697	744	930	1.34
470	460	630	708	756	945	1.34
480	470	640	720	768	960	1.33
490	480	650	731	780	975	1.32
500	490	660	742	792	990	1.32
510	500	670	754	804	1,005	1.31
520	510	680	765	816	1,020	1.30
530	520	690	776	828	1,035	1.30
540	530	700	788	840	1,050	1.29
550	540	710	799	852	1,065	1.29
560	550	720	810	864	1,080	1.28
570	560	730	821	876	1,095	1.28
580	570	740	833	888	1,110	1.27
590	580	750	844	900	1,125	1.27
600	590	760	855	912	1,140	1.26
610	600	770	866	924	1,155	1.26
620	610	780	878	936	1,170	1.25
630	620	790	899	948	1,185	1.25
640	630	800	900	960	1,200	1.25
650	640	810	911	972	1,215	1.24
660						
670						

MILES.	
Under.	Over
440	430
450	440
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480	470
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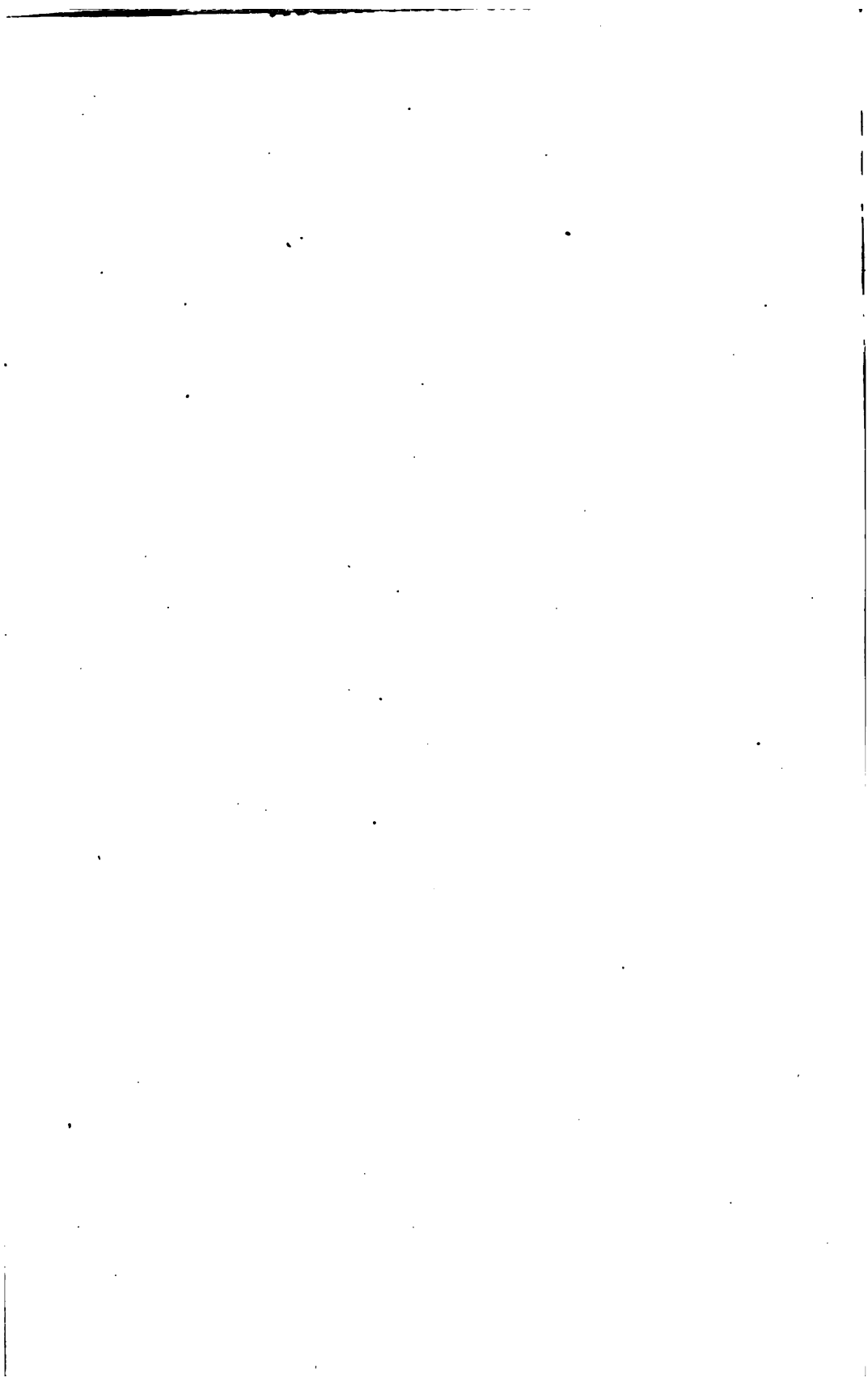


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